they don't want to apply to them and at the same time supporting any rule that they do want. Now, certainly, you are not going to further impede the presentation of the respondents by forbidding them to take those rules one at a time and discuss whether they are in conformity with the existing practices and secondly whether they should be. I submit we are put at enough disadvantage in this [fol. 2045] proceeding already.

Exam. Lawton: What disadvantage would there be in putting in a copy of the lease in the record?

Mr. Turney: I think we have our own opportunity to present our proof in the way we want to. I am asking him whether we have these things now and then I am going to ask him whether there is any necessity for them.

Mr. Wheeler: Mr. Examiner, I join in that request and object to any further testimony which effects not only the lease but the contract and the bills that are executed by Allied on behalf of its agents and any other documents to which this witness has testified. There is no point in his testifying as to what they contain when they are available and can be introduced with no trouble at all.

Exam. Lawton: It would be very helpful.

Mr. Turney: Mr. Examiner, that lease is a part—and he has testified it is an inseparable part of a very complex plan of operation; it would require our constitution, our by-laws, our rules and regulations, our agency agreements, our operating instructions as well as the lease forms themselves. Now, I submit there is no sense in getting all of that into the record in order to establish whether our lease forms have these things in them and the supporting documents. I am only going to take those that are specifically related to in the Commission's own rules which we are trying to [fol. 2046] meet.

Exam. Lawton: You mean the lease form isn't understandable without all these other documents, incomplete?

Mr. Turney: I mean exactly that, that you will have to study all of them. It is all part of an integral plan of operation. There is no other like it. It is a cooperative which is entirely unusual in your motor carrier regulations and it is one which a lot of pages of testimony and a lot of pages of exhibits were devoted to in finally obtaining

approval of the entire thing point by point by the Commission. Now, there is no sense in our trying to go through all those documents again, because Mr. Wheeler himself would have a fine time understanding them if he ever tried to.

Mr. Wheeler: I submit that Mr. Turney has made the best argument that can be made for the introduction of all those records.

Mr. Turney: I submit it is a better argument on the other side.

Exam. Lawton: Are you willing to put them in?

Mr. Turney: No, sir, I am not willing to put them all in. I am not going to go to the printing expense——

Exam. Lawton: Aren't they available in sufficient numbers that you can furnish them for the record?

Mr. Turney: No, sir, no, sir. These documents are printed documents, sir. They range from a quarter of an inch to a [fol. 2047] half inch thick. I am not going to volunteer to serve those on all the many respondents in this case. I submit that Mr. Wheeler nor any of the other parties here has any interest in that particular question.

Mr. Todd: Mr. Examiner, I have always thought that the Allied setup was rather complex but even assuming that it is, I can't see that that is any excuse for not complying with the best evidence rule. We don't have complete latitude in putting in evidence in any case. There are certain rules that we all have to follow, and one of them happens to be the best evidence rule.

Exam. Lawton: Can't you at least put in the lease form?

Mr. Turney: Mr. Examiner, the lease form itself refers to all these other documents. He has just testified that four of the principal specifications in the Commission's rule of what should be in the lease form are all incorporated to the extent they are practiced at all in subsidiary documents. He has already testified to that. Four out of five so far were contained in other documents.

Now, Mr. Examiner, this is a plan that the Commission has been through. It is the only one where you are going to know anything when you get through with this case about the specific requirements in the public interest of any

particular carrier's operation; it is the only one that you will know whether that particular carrier's operation is [fol. 2048] consistent with the public interest.

Exam. Lawton: Do you guarantee that?

Mr. Turney: I am pretty positive of it.

Exam. Lawton: All right, go ahead.

Mr. Wheeler: I move to strike all of the testimony of this witness with respect to documents containing the lease, contract, the bills issued by Allied Vans, the written instructions issued to the various agents, with respect to the training of drivers and their conduct unless and until those documents are produced.

Mr. Turney: Mr. Examiner, the Commission never applies any such ridiculous rule as that. Every witness that has been in this case has testified as to the practices of their company. That is what he is testifying to, the practices. The fact that they are involved in written documents makes no difference. Witness Harris at your Washington hearing was in exactly the same position. He wanted to prove his case in his own way and I submit we can—and I submit for a ruling.

Mr. Todd: Mr. Examiner, this witness is not testifying as to his practices. He is testifying as to specific provisions of written instruments and under those circumstances we have a right to insist upon the best evidence rule, namely, the written documents.

Mr. Turney: He is testifying as to the practices involved in an approved plan, Mr. Examiner. They are asking to burden this record in an absolutely unnecessary manner. [fol. 2049] We have nothing to hide but I don't want to be put to that expense for a lot of people that have no interest whatever in what we are doing.

Mr. Lorton: Let me ask you—you have the decision in evidence in this record by reference—might not also the record and the exhibits be incorporated in this record by reference?

Exam. Lawton: All of those documents are in the files of the Commission.

Mr. Turney: They are in the files of the Commission, Mr. Examiner, and I have no objection to any of these parties going to the files of the Commission and abstracting any

part of that record that they may want to and putting it in the record in this proceeding, but I am not going to accede to Mr. Lorton's suggestion because if the Commission applies restrictive rules to us we are going to court on the sea train case, and I don't want to have to reprint the entire Allied Van Lines 2787 record in order to get a court ruling, that is the only reason why I have any objection to his suggestion.

Exam. Lawton: Then you have no objection to anybody using any of those papers that are already a matter of record in cited cases?

Mr. Turney: I have no objection to them putting them in evidence. That is a different thing——

[fol. 2050] Exam. Lawton: In order for them to be referred to in brief we would have to consider them as part of the record in this case.

Mr. Turney: No, sir, I want to require that anybody who wants to refer to them in brief put them in physically, the parts that they want to refer to, in the record, because there have been a number of people who have been precluded in court cases from taking them to court because they have made exactly that same sort of a stipulation. They had a record that was just too much to print. When you go to court you have got to print what is before the Commission and that includes the things that were incorporated by reference.

Mr. Lorton: It seems to me, Mr. Examiner, what is sauce for the goose is sauce for the gander. What Mr. Turney is requiring the opposing counsel to do in this case is to put physically into evidence everything that they want to consider in connection with this case and he isn't willing to do it. The only thing that has been requested by Mr. Todd and other counsel here is that Mr. Turney follow the same rule which he advocates that everybody else follow.

Mr. Turney: Mr. Lorton, matters do not get incorporated by reference in the record before the Interstate Commerce Commission unless there is unanimous agreement on it, and I will not agree to that voluminous record in the long line of proceedings involving Allied Van Lines being in-

[fol. 2051] corporated in this record by reference.

Mr. Todd: In which event, Mr. Examiner, I certainly

By Mr. Wheeler:

Q. Mr. Thomas, you stated during the course of your direct examination that some of the rules proposed contained in this notice of proposed rule making while not objectionable would result in some inconvenience to your company, is that correct?

A. I don't remember that I said that. I might have.

Q. Well, taking just as an example that I happen to recall, you stated that there would be no need for carrying serial markings on your trucks.

[fol. 2066] A. Yes.

Q. They already had it. I am taking that merely by way of illustration to refresh your recollection.

A. Yes.

Q. Do you believe that in those instances in which the inconvenience of the proposed rule is not severe and will not curtail the operations of household carriers that the rule should be adopted by the Commission?

Mr. Liebermann: If your Honor please, I object to this on the ground it is predicated on an assumption that this witness knows the inconvenience, if any, to which the other household goods carriers would be placed by virtue of this rule, and I don't think he is qualified to answer the question.

Exam. Lawton: Read the question.

(The question was read by the reporter.)

Exam. Lawton: Overruled. You may answer.

A. I would say that there certainly has to be some method by which the men who are charged with the enforcement of this should be able to identify the vehicle. The reason I made that statement previously was because they had a system of having metal tags and one thing and the other there and that was abandoned and I don't think anybody has felt the worse, the public or anybody else has suffered because they did away with that. I don't think that was the reason they did it but I don't think anybody has been particularly hurt by the fact that they did it. It is just [fol. 2067] one of those things that adds a little bit to the inconvenience of operations, and again I take into consid-

believe that Mr. Turney out of all fairness should be willing to furnish the parties of record in this case at least those written instruments that he wants to have considered in the case.

Exam. Lawton: I think that is fair.

Mr. Turney: I don't want any written instruments considered in this case.

Mr. Todd: Your witness right now is testifying concerning written instruments and I would be perfectly happy to have the reporter read back any part of the testimony and that will be it, he is testifying concerning written instruments.

Exam. Lawton: I think so. If that is important to you, Mr. Turney, I think you should some way agree to put them in the record in this case.

Mr. Turney: I am not going to go to the printing expense of putting those underlying documents in, Mr. Examiner, for two reasons. One, is that it is purely a fishing expedition. None of them involved have any interest whatever. In the second place, the whole thing has been through the wringer once. They can't change the Commission's decision. The full Commission ruled on these things.

Exam. Lawton: That is why I don't see why you can't agree to the incorporation of those matters by reference.

[fol. 2052] Mr. Turney: Because, Mr. Examiner—I would have no objection for their content, that is not the reason. The reason is that if there are restrictive provisions imposed on us which impair that decision of the full Commission in our Section 5 cases we are going to go to court and when you go to court you have to have all the record printed and that includes the things that were incorporated by reference.

Exam. Lawton: Is there any implication that the Commission is going to do anything in this proceeding to impair what it has done in those other proceedings?

Mr. Turney: We haven't any exemption to date. If you will rule from the bench right now that we will be exempt from the leasing rules, we will terminate our participation right now. The viciousness of these witch hunts, Mr. Examiner, is that anything can happen. The respondents are placed at a terrible disadvantage. They don't know what is going to happen to them. Now, if you want to rule

right now that the Commission will not change what it did we will go home.

Exam. Lawton: I couldn't rule on that.

Mr. Turney: I didn't think you could.

Exam. Lawton: How much more of this, the second best evidence, are you going to put in, then, about these agreements?

Mr. Turney: Well, I will change all his testimony to the practices, if that will make these gentlemen happy. It doesn't change the thing at all because he has already testified that the practices were the same as the agreements [fol. 2053] and that the agreements and practices were approved. They have been arguing about nothing at all, but we will change the whole line of testimony to practices.

Mr. Todd: Just a moment, Mr. Turney. I want a ruling on my objection to this testimony and request for——

Exam. Lawton: He is changing his interrogation.

Mr. Todd: I am still entitled to the ruling on the last question, am I not, Mr. Examiner?

Exam. Lawton: If we can find it.

Mr. Todd: Well, never mind.

Mr. Woll: I think you also have a motion before you to strike the previous testimony of this witness, that has to be ruled on also.

Exam. Lawton: I will overrule that.

Mr. Wheeler: You overrule the motion to strike all testimony with regard to written documents that are not produced in this proceeding?

Exam. Lawton: With the understanding that he confines his interrogation from now on to strictly the practices.

Mr. Wheeler: What about the testimony that has been heretofore given on leases and contracts?

Mr. Turney: We will procure that right now, Mr. Examiner.

Exam. Lawton: All right.

By Mr. Turney:

Q. Mr. Thomas, with respect to your previous testimony [fol. 2054] as to the terms and provisions of the lease agreements, the agency contracts, the by-laws, the rules and regulations to the extent that you have testified about any

of those, if I asked you the same questions with respect to the practices of Allied now engaged in or approved by the Commission would your answers be the same as they were with respect to the documents reflecting these practices?

A. Yes, sir.

Mr. Woll: Now what he has done, Mr. Examiner, he has not only got the rules in there but he has got the practices now. He is adding something instead of eliminating something.

Mr. Turney: You asked for it.

Mr. Woll: He has got the practices in there now and the previous testimony concerning the others stays in. I would like to have him remove the other portion now and just leave the practices in.

Mr. Turney: I have no objection. It doesn't make a bit of difference.

Exam. Lawton: All right. It will be understood the previous testimony will be stricken.

Mr. Ellis: Some of us are a little bit concerned about what goes into this record. We are not making an agreement or announcement of what we are going to do. We are going to wait until the Interstate Commerce Commission, wait to see what they do do. I move to strike physically from the record, in the interest of keeping this record [fol. 2055] from running beyond the bounds none of us can afford to pay for it, all of this colloquy.

Mr. Idol: I join in the motion.

Mr. Turney: I agree with that, that is a good motion.

Exam. Lawton: All right. Let's see if we can avoid that. We are going to have an extended record. Strike all of the colloquy after Mr. Todd's objection and Mr. Turney's remarks.

By Mr. Turney:

Q. Does your present practices require that the company give an endorsement to the agent with respect to each piece of equipment that is leased to the effect that Allied accepts full control, direction and domination of the service and accepts full responsibility to the general public, the shipper and the Interstate Commerce Commission for the

transportation furnished to the same extent as if it were the lawful owner of the equipment for the duration of the agreement, contract or lease?

A. It does.

Q. Now, is there any such provision in your practices with regard to each trip?

A. I don't know just what you mean by that question. The same thing applies——

Q. To the single lease, to the single piece lease of equipment for the entire term, is that correct?

A. Yes, under the term lease, yes.

Q. Now, is there any necessity that you can see from the public standpoint for altering the Allied method of doing [fol. 2056] business in such a manner to comply with those of these regulations that I have mentioned that are not now followed?

A. I see none.

Q. Does Allied retain copies of all signed lease agreements in its files for two years after execution?

A. Yes, sir.

Q. Does Allied furnish the drivers on each trip with a true and certified copy of the agreement?

A. Carry with them you mean on the trip?

Q. Yes.

A. The lease?

Q. Yes.

A. No.

Q. Would any public purpose whatever be served by requiring that the drivers carry a copy of the agreement?

A. I see none.

Q. Does Allied interchange equipment with other carriers?

A. No, sir.

Q. Does Allied through its agents assume responsibility for seeing to it that the safety and hours of service regulations are observed in connection with Allied movements?

A. Yes, sir.

Q. Does Allied maintain a safety program, an instruction program to see to it that the agents obtain—complies with [fol. 2057] these safety regulations?

Mr. Todd: Mr. Examiner, I don't like to be contentious but I wonder if this witness could be examined without leading questions.

Exam. Lawton: Do you think that is possible, Mr. Turney? Please try.

Mr. Turney: It is a lot speedier to ask the questions in this manner, Mr. Examiner. Nobody's rights are being injured in this manner of questioning. I am asking simply whether he has such an arrangement. Everybody has been asking exactly the same sort of questions in the hearing today.

Exam. Lawton: All right.

Mr. Todd: I take it they can't be.

Exam. Lawton: There were no objections, however. All right.

The Witness: Will you read the question, please?

(The question was read by the reporter.)

A. I don't know that they have an extensive program along that line but they are continually warning the agents and telling them they must comply with all the safety regulations of the Interstate Commerce Commission.

By Mr. Turney:

Q. Do you receive reports as to the extent of compliance at your Chicago office?

A. Yes.

Q. For examination and follow-up on those reports?

A. Yes.

[fol. 2058] Q. In your opinion is there any greater problem of enforcement of hours of service regulations in connection with Allied's operations through its agents than if Allied itself owned the equipment operated in its service?

Mr. Woll: Mr. Examiner, we are getting right back into the same field that we were in before. I object to the question unless the agency agreement is produced.

Mr. Turney: Agency arrangement, then.

Exam. Lawton: Arrangement, all right, overruled.

A. Well, it is a matter of contract between the Allied and the agents and of course it is a written contract and there is no question but what it is a valid contract. It contains——

Exam. Lawton: Wait, maybe you misunderstood the question.

By Mr. Turney:

Q. I will reframe the question, Mr. Thomas. Does the practice of having the drivers subject to the supervision of the individual agent by whom they are employed impede or assist in the maintenance by Allied of compliance with the hours of service regulations.

A. I think it very materially assists them because they are in direct contact with the immediate employer, much more frequently than if they were on the road continuously. In other words, the employer and the lessor has an opportunity to talk to the men much more frequently and find out what is going on on the highways than in the case of carriers requiring men to be out at all times and seldom getting home.

[fol. 2059] Q. With respect to movements in which Allied shipments are transported, does Allied assume all the responsibility of a carrier with respect to the shipper, public and the regulatory authorities?

A. Yes, sir.

Q. That is for all movements?

A. Yes, sir.

Q. Is there ever any disclaimer of responsibility by Allied or its agents in such arrangements?

A. I have never heard of it.

Q. In the transportation of household goods in interstate commerce for the public do Allied or the agent make any distinction between the activities of Allied and those of its agents insofar as the public is concerned?

A. I don't know that I get the question.

Exam. Lawton: Read the question.

(The reporter read the last question.)

A. No.

Q. Have you read the sections of Mr. Blanning's Exhibit No. 2 that relate specifically to household goods carriers?

A. Yes, sir.

Q. In view of the nature of the Allied organization, can any of those situations there described happen in connection with Allied operations?

A. I don't see how they can because they deal almost exclusively with the relation between carrier, lessors and [fol. 2060] lessees operating outside of their own territories, and Allied Van Lines is the carrier in this case and has nationwide rights and there is no reason why they should have those sort of relations with other carriers.

Q. And the agents have no rights?

A. That is right.

Q. And the logs that are given the driver are maintained at the agent's warehouse, is that correct?

A. Yes, sir.

Q. Now, I believe several of the situations cited by Mr. Blanning relate to claim procedure. Have the Allied claim procedures been examined and specifically approved by the Commission in Ex Parte MC-19?

A. Yes, sir.

Q. Did Allied, the agents, and representatives of the public as well as the insurance company appear in support of those practices?

A. Yes, sir.

Q. Does Allied interline with other carriers?

A. No, sir.

Q. And their agents are exclusively agents of Allied insofar as your interstate activities are concerned?

A. Yes, sir.

Q. Is there any subleasing of equipment practice?

[fol. 2061] A. No, sir.

Q. As far as Allied is concerned?

A. No, sir.

Q. And I believe you stated there was no division of liability insofar as the public is concerned as between Allied on the one hand and the agent on the other?

A. No, sir.

Q. You stated earlier in your testimony that based on your estimated value of household goods, interstate house-

hold goods operating authority from $500 to a thousand dollars, the value of your own rights was equal to somewhere between $9,000 and $18,000; that is for your 18 states. Now, how many states in total were transferred—rights to handle household goods in how many states were transferred to Allied in the various financial proceedings?

A. I think just short of 5,000, as I remember.

Exam. Lawton: 5,000 what, rights?

A. Individual rights.

By Mr. Turney:

Q. So that on your assumed value per state, the value would be somewhere between 2½ and 5 million dollars, is that correct?

A. Yes, sir.

Q. The rights that were transferred to Allied?

A. Yes, sir.

Mr. Turney: That is all.

[fol. 2062] Exam. Lawton: You may cross examine.

Cross examination.

By Mr. Eldred:

Q. Mr. Thomas, do I understand that the Allied leases the vehicles from its agent for a period of a year?

A. Yes, sir.

Q. Is there any guarantee to the agent as to the amount of use that that vehicle will be put by Allied?

A. No, sir.

Q. In other words, although Allied might have a lease with a vehicle it might be possible it might not use that vehicle at all during the year.

A. Might be.

Q. Now, could you briefly state what your objections are to the proposed rules as promulgated by the bureau of motor carriers in this proceeding?

Mr. Turney: Mr. Examiner, I submit that is no way to ask a witness these things. Let him take the rules one at a time. That is not fair to ask him to take anything that is

involved as all that and try to remember every one of them that he has an objection to. I think a while ago the objection was he was being too specific about the rules and now he wants him to give the whole batch over again. I have no objection to him bringing the point out if he will do it fairly so that the witness has a chance.

Mr. Eldred: I am not going to lead the witness at all. I [fol. 2063] am going to ask him questions. He can state briefly what his objections are.

Exam. Lawton: I think so; I think that is a fair question.

A. The interest of Allied Van Lines, as I interpret it in this whole proposition is simply to see that the public is properly and adequately served in connection with the transportation of household goods, and that is all we are interested in, and if the Commission can prescribe rules and regulations that will achieve that purpose, then we are perfectly willing to conform to them.

Now, just as to any specific objections we might have to them, I don't know, the matter hasn't been passed on by the Board of Directors. I am not in a position to say just what their specific objections may be to them, but in a few words that is just all that we are interested in in this case.

Mr. Eldred: Thank you very much. That is all I have.

By Mr. Wheeler:

Q. Mr. Thomas, is there any reason why the rest of the household goods carriers should not be required to adhere to the same rules that you have suggested apply to Allied Van?

A. There may be conditions under which they are operating which would make it difficult for them to operate in the same manner as Allied. This thing that we have perfected in Allied Van Lines, or at least reaching perfection we think, for the purpose for which it is organized, has taken years and years and years and there may be condi- [fol. 2064] tions existing with other carriers that don't exist with our method of operation which would make it difficult for them to operate in the same conditions.

Q. Do you believe that the inconveniences that the other carriers might suffer under the proposed rules outweigh the

public interest which you have stated is the consideration which will govern Allied Van Lines in its approach to this problem?

Mr. Brodsky: I object to the question, Mr. Examiner. This witness has not testified with respect to the practices of other carriers in the industry. He confined his testimony entirely to Allied Van Lines.

Exam. Lawton: I think that question was a little broad, perhaps. I think his testimony was confined only to Allied. I don't believe he is qualified. Off the record.

(Discussion off the record.)

Exam. Lawton: Restate your question and conform to the direct testimony.

By Mr. Wheeler:

Q. You have stated, Mr. Thomas, that you believe that the public interest should be the guide or will be the guide for your company, Allied Van Lines, in determining what rules should be adopted by the Commission to govern your operation, is that correct?

A. Yes, sir.

Q. Do you believe that that should be the paramount consideration of the Commission in connection with rules which it adopts for the operations of the industry as a whole, that [fol. 2065] is the household goods industry?

Mr. Lieberman: I object to that, Mr. Examiner, first, on the ground that this witness, at least insofar as the household goods industry is concerned aside from Allied is not qualified to speak nor would he care to speak on behalf of any other household goods carrier.

Exam. Lawton: That calls for his opinion. Overruled. Do you understand that question?

A. I think I do, yes, sir. I would say that was the purpose for which the Interstate Commerce Commission—one of the real purposes which the governing powers had in mind when they established the Interstate Commerce Commission. There are other things in there but I would say that is certainly one of the primary things for which it was established, to stabilize the industry in the public interest.

eration the fact that a lot of times we think these things are inconvenient and after they are done we forget all about them. We make a lot of fuss about them——

Q. Your answer I take it, Mr. Thomas, would apply to other situations than just the one that I gave you by way of illustration from your testimony, I mean the same approach would apply?

A. That would be my approach to that, yes.

Mr. Wheeler: I think I have no further questions.

By Mr. Todd:

Q. Mr. Thomas, I believe on your direct testimony you indicated that the Allied agent handles as a carrier itself the intrastate traffic that it handles and then handles as a hauling agent the interstate traffic; is that a correct statement?

A. Yes, sir.

Q. Of that situation?

A. Yes, sir.

Q. Do occasions ever arise when you have in the same motor vehicle a part load made up of interstate traffic and another part load of intrastate traffic?

A. I do know that we have specifically warned the agents not to do that. Now, whether they do it or not, I can't positively say it isn't being done. I know they have been warned time and again that is illegal and shouldn't be [fol. 2068] done.

Q. Is it your testimony, then, that when Allied Van itself is using one of these trucks it has the exclusive use of that truck?

A. Yes, sir.

Q. And when the agent is using it he has the exclusive use of the truck, is that right?

A. Yes, sir.

Q. Now, supposing that on any given day Allied wanted to use one of the trucks or all of your trucks and the agent had use for one or more of the trucks so that somebody's interests had to give way. Would it be the interests of Allied or of the agent?

A. Well, there would be a good many things that would

have to be taken into consideration in connection with that. The customer, the shipper would have to be taken into consideration and in the final analysis, however, Allied Van Lines could demand the use of that van. However, they don't take that sort of an arbitrary position if it is going to inconvenience shippers and other people.

Q. Does the contract or lease under which you operate with the Allied Van Line give it the right to insist upon the use of the equipment even to the exclusion of the owner thereof?

A. I don't know that it goes that far. In fact, I don't know that it ever becomes necessary to go that far because we have a large amount of equipment and usually there is an alternative to those things, demanding all that sort of [fol. 2069] a thing. In the final analysis the contract would give Allied the authority to say to that agent, "You furnish that piece of equipment if it is available" under certain circumstances, if it isn't available, in some other use, they can't furnish it.

Q. In connection with the drivers on these motor vehicles, they are always the employee of one of the agents or of Allied Van, one or the other?

A. Yes, sir.

Q. At all times?

A. Yes, sir.

Q. There is no question there of their status as an employee?

A. No, sir.

Q. During the period of the lease between Allied Van and its agents, may the agent or owner of a vehicle lease that truck to anyone else if Allied Van is not using it?

A. No, sir.

Q. I believe you also stated on direct examination that a small percentage of the business of Allied Van is handled on a trip-lease basis, is that correct?

A. No, sir, I didn't say that.

Q. You didn't say that?

A. No, sir.

Q. So I take it that none of the traffic of the Allied Van Line is handled on a lease basis?

[fol. 2070] A. It is handled on a long-term lease basis, yes, sir.

Q. Not on a trip-lease basis?

A. Trip lease, no, sir.

Q. I take it, then, that Allied Van uses no itinerant or gypsy truck operators in its truck operation?

A. No, sir.

Q. Does Allied Van have two different type- of agents, one known as a hauling agent, the other as a booking agent?

A. Yes, sir.

Q. And is the hauling agent the *the* one who owns and operates the equipment?

A. Yes, sir.

Q. Is there any limitation on the certificate of authority which Allied Van has that limits them as to the number of hauling agents that they may authorize to work under their operating rights?

A. You mean as between Allied Van Lines and the agents or between the Interstate Commerce Commission——

Q. Yes, sir, in their certificate of convenience and necessity.

A. No, sir, we hold a certificate which requires us to serve the public in the movement of household goods and our policy of Allied Van Lines is to establish an agency wherever we can best implement that sort of policy.

Mr. Turney: I think the witness misunderstood the question. It was a legal question, I think.

[fol. 2071] Exam. Lawton: Go back and read the question.

(The question was read by the reporter.)

Exam. Lawton: Does that answer your question?

Mr. Todd: Just one more clarifying question. So that there is nothing in the certificate that limits the Van Line from putting a hauling agent or a booking agent in any particular location that they feel the public interest demands?

A. No, sir.

Q. As to an additional agent?

A. No, sir.

Mr. Todd: That is all, thank you, sir.

By Mr. Diehl:

Q. Do the Allied Van agents own any equipment in addition to that which is leased to the Allied Van Lines?

A. Yes, sir.

Q. This lease of the equipment to Allied Van is for I believe you said one year, is that right?

A. Yes, sir.

Q. It has a cancellation clause?

A. Yes, sir.

Q. What length of time is that?

A. My recollection is that the agent can cancel on 30-days' notice and I believe it is either a 60 or 90-days' notice on the part of Allied Van Line to cancel, and then it can only be cancelled after a hearing. The agent has an opportunity to be heard, and further has an opportunity appeal from a decision of the Board of Directors either through [fol. 2072] demanding arbitration or through court proceedings, and I think it provides that the lease can be cancelled in either 60 or 90 days but it affords every protection to the agent.

Q. Does the cancellation of a lease governing a particular unit have anything to do with the status of the agent?

A. You mean the cancellation of the lease on a piece of equipment?

Q. Yes, sir.

A. No, sir.

Q. Agents have more than one unit under lease to Allied Van Company, don't they?

A. Many of them do, yes, sir.

Q. And there isn't any limitation, is there, as to how many he may lease to the parent organization?

A. There is no limitation excepting that of course sometimes the agents will confer with Allied Van Lines in advance to find out whether there is a need for another piece of equipment in that territory and they will either encourage or discourage them to put it on, as the necessity arises.

Q. What I am trying to get at is if the needs of Allied's business tomorrow requires another unit in Kansas City—is that where you are located?

A. Yes, sir.

Q. Is there any reason why you can't provide another unit, lease it immediately to Allied Van for a [fol. 2073] year?

A. No, sir.

Mr. Diehl: That is all.

Mr. O'Brien: I have one or two questions.

Q. Mr. Thomas, I am not sure whether or not you brought this out on direct, but how is compensation for the use of your equipment computed under your year lease?

A. We have two forms of operation in Allied Van Lines. We have what we call the A service, which is where an agent of Allied Van Lines books the business and is instructed by Allied Van Lines to haul it on his own equipment, in which event that agent gets the full revenue for that operation but is required to pay what we call an expense ratio to support Allied Van Lines. With the exclusion of that one item he gets the full revenue from it, including all the accessorial revenue.

We have another contract between our agents in which they provide the vehicles to service the bookings of other agents in which event the compensation is based on the percentage of the revenue; the booking agent receives a revenue of 16 per cent, that is with one exception, receives a revenue of 16 per cent, plus a terminal charge of 5 per cent, and the balance of that revenue goes into what we call a deflated fund. We compensate the agent immediately and directly on the basis of 30 cents per mile for the mileage, the tariff miles traveled plus a loading and unloading allowance, and any balance in that fund going into the re- [fol. 2074] serve fund is distributed to those B service operators periodically, or any deficit in that fund is charged against the organization, that is, the agents on a pro rata basis in the expense ratio.

Q. I take it from that that you don't favor the Rule 2-C, then, of the Commission stating that compensation for the use of equipment shall be computed on a use basis entirely?

A. I think our form of organization doesn't require that sort of a thing in the public interest.

Exam. Lawton: Therefore, you don't favor it for your organization?

A. No, sir.

By Mr. O'Brien:

Q. That was the question.

A. No, sir.

Q. As I understand your answer to Mr. Todd's question during this term of a year actually your arrangement does not call for the exclusive use of the equipment in accordance with Rule 2-A; in other words, during that period of time the driver or the owner of the equipment cannot use the equipment to haul any of his own goods or goods for anybody else. As I understand your answer to Mr. Todd's question, you do not conform to that particular rule at the present time?

A. If I understand your question right, that is not true.

Q. Let me rephrase it. Perhpas I did not make it very clear. Rule 2-A provides for the exclusive use of the equipment during the full period of the lease and shall not [fol. 2075] permit the subletting or subleasing of the equipment in whole or in part or permit use of the equipment for the transportation of property of the lawful owner of the equipment or property which is in his custody or control.

A. I think that might be interpreted to put some restrictions on our method of operation and accordingly I wouldn't be in favor of it.

Q. In other words, in view of the orders that you have received from the Commission in the past, do you feel that you come within the exception provided by Rule 2-K wherein it states that such rules, such as in 2-A and 2-C are not to apply where a carrier has had this plan submitted in a formal proceeding and approved by the Commission in a formal proceeding?

A. We fell that after all the long litigation and all the number of hearings that we had that our case has been thoroughly understood, is thoroughly understood by the Interstate Commerce Commission. In several places in their

order they mentioned the fact that we were accepting what practically amounted to a permanent arrangement and we feel that it would be a rank injustice at this time to change the rules of the game in the middle of the game. That is the way we feel about it.

Q. I take it your answer to my last question is yes?

A. That is right.

[fol. 2076] Exam. Lawton: Anyone else over here have any questions?

Mr. Nisbet: Mr. Thomas, does Allied Van Lines ever lease equipment from anyone other than their hauling agents?

A. No, sir.

Mr. Nisbet: That is all.

Mr. Turney: Is that all the cross? I will clear that up.

Exam. Lawton: All right.

Redirect examination.

By Mr. Turney.

Q. You are precluded from doing that insofar as other carriers are concerned by the restriction that you mentioned in direct examination, are you not?

A. Yes, sir.

Q. You were asked on cross-examination whether there was a limitation in your certificate against the acquisition of new hauling agents. The limitation against the acquisition of new hauling agents that you mentioned is found in the financial decisions where the Commission said that you would have to come to them for approval?

A. That is right. There is that restriction in there that if we acquire the rights, that is, if we take in an agent who has a certificate from the ICC authorizing them to operate interstate in the transportation of household goods, that we must have the approval of the Commission before we can take that agent into Allied Van Lines, which is another restriction on us that I don't think is common to the industry.

[fol. 2077] Q. One other question to clear up a point. Your by-laws require that the allocation of equipment as between agents be on a fair and reasonable basis?

A. Yes, sir.

Q. Among the members of the cooperative?
A. Yes, sir, that is right.

Mr. Turney: That is all.

Exam. Lawton: Did I understand that during the term of the lease the hauling agent, when not engaged in Allied operations, might lease the equipment on a trip basis to some other carrier?

A. They have the privilege of using the equipment in their own service under the contract with Allied Van Lines, yes, sir.

Mr. Turney: That wasn't what he asked you. He asked you if they could lease it to someone else.

A. Oh, no, no.

Exam. Lawton: They can't do that, not even on a trip basis?

A. No, sir.

Exam. Lawton: I thought I understood you that way. If there are no further questions you are excused.

(Witness excused.)

Exam. Lawton: We will recess for five minutes.

(A recess was taken for five minutes.)

Exam. Lawton: All right, come to order, please. We will resume the hearing.

[fol. 2078] Mr. Todd: I would like to call Mr. Williams to the stand.

C. J. Williams, was sworn and testified as follows:

Direct examination.

By Mr. Todd:

Q. Give the reporter your full name and business address, please.

A. My name is C. J. Williams, 1526 South 1st Street, Milwaukee, Zone 4.

Q. With what company are you connected, Mr. Williams?

A. The Hillside Transit Company.

Q. And in what capacity?

A. I am the President.

Q. How long have you been connected with the Hillside Transit Company?

A. Since its inception in 1927, '26 or '27.

Q. And what is the business of the Hillside Transit Company?

A. Contract motor carrier company mainly in the distribution of groceries and also petroleum products.

Q. In performing that distribution service do you transport property both in intra and interstate commerce?

A. We do.

Q. And is the transportation of petroleum products performed in tank trucks?

A. That is right.

Q. And is part of that service performed in interstate [fol. 2079] commerce as well as intrastate commerce?

A. Right.

Q. And are those services performed under written contracts?

A. That is right.

Exam. Lawton: Where is the headquarters of this company?

A. At Milwaukee, sir.

By Mr. Todd:

Q. Is your company a member of the Wisconsin Motor Carriers Association?

A. Yes, sir, it is.

Q. And have you ever held any office in that association?

A. Yes, I was President for I believe three years and I am presently a director.

Q. Has the Wisconsin Motor Carriers Association ever taken any action with respect to the leasing of motor vehicles, the subject that is under investigation here at this time?

A. Yes, they have on several occasions.

Q. And what in substance has been the action taken by that Association?

A. Frankly, the Association has gone on record endorsing in principle the proposals that the Interstate Commerce Commission proposed and possibly modifying one or two of the items, particularly with respect to the interchange of equipment, but at the same time being unalterably opposed to any regulation which permits the so-called trip leasing, the one-way trip leasing.

[fol. 2080] Q. Does your unalterable opposition to trip leasing run to that practice when it is conducted between two carriers authorized to transport property by the Interstate Commerce Commission?

A. That they regard as the interchange of equipment?

Q. Between authorized carriers.

A. That is right, between authorized carriers.

Q. And do they oppose that arrangement?

A. No.

Q. Is your company at the present time a member of the Contract Carrier- Conference of the American Trucking Association?

A. It is.

Q. Do you hold any office in that organization?

A. Vice-Chairman.

Q. Were you present at the annual meeting of the Conference which took place in Washington, D. C. on October 8 and 9, 1948?

A. I was.

Q. Do you know whether the Conference at that meeting considered the subject that is here under investigation?

A. Yes, it did.

Q. And do you know whether the Conference took any action with respect to this subject?

A. It took the position and I believe I know passed a motion opposing the one-way trip lease.

Mr. Todd: May it please the Examiner, at this time we [fol. 2081] request that this document consisting of one page be marked as Exhibit No. 29. I have already distributed copies to other parties. If anybody else wants one I have some more.

Exam. Lawton: It will be identified as Exhibit No. 29. That is the resolution of the Contract Carriers Conference.

(Exhibit No. 29, Witness Williams, marked for identification.)

By Mr. Todd:

Q. Directing your attention, Mr. Williams, to the document that has just been marked for identification as Exhibit No. 29, would you describe briefly for the record what that purports to be?

A. This is the result of the discussions that took place, and I think is self-explanatory.

Q. Is it a copy of the resolution as passed by the Contract Carriers at the meeting I previously mentioned?

A. That is right, sir.

Q. Now, Mr. Williams, you are also an officer of the parent association, namely, the American Trucking Association?

A. Yes, sir, I am.

Q. What is your office in that organization?

A. Second Vice-President.

Q. Did the American Trucking Association prior to these hearings consider the subject of leasing?

A. Yes, it did.

[fol. 2082] Q. Are you familiar with the fact that a committee was appointed to study the subject?

A. I was a member of that committee.

Q. Are you familiar with the majority report that was passed by that committee?

A. Yes, sir.

Q. Do you subscribe to the provisions of that majority report?

Mr. Ellis: I want to interpose an objection and ask leave to ask a preliminary question, if I may.

Exam. Lawton: To ask a preliminary question?

Mr. Ellis: I want leave to ask a preliminary question.

Mr. Todd: I have no objection.

Mr. Ellis: May I have that permission?

Exam. Lawton: Yes.

Mr. Ellis: At the Washington session of this hearing there

was a witness I believe, Mr. Sutherland, and he occupies an office, I believe he is 3rd-Vice-President, is that right, Mr. Idol, of the American Trucking Association?

Mr. Idol: Yes, correct.

Mr. Ellis: I believe he testified he was Chairman of that leasing committee and speaking for the entire association and testifying for and in behalf of them. I want to know whether he was incorrectly stating his position or whether he was a representative of the American Trucking Association when he was testifying.

[fol. 2083] Exam. Lawton: You are asking counsel?

Mr. Ellis: No, I am directing that to the witness.

Mr. Todd: I object to the question, Mr. Examiner, because it has nothing to do with the testimony of this witness. I pointed out his position with the American Trucking Association merely as a preliminary matter to him giving the basis of his testimony. I mean this man can appear here before the Commission and testify as to his position in this case and it might be contrary to Mr. Sutherland's position. There is certainly no gag rule involved.

Mr. Floyd: Mr. Examiner, I would further object to that question because it is not a correct statement, as I understand the position that was expressed at that first hearing, because I happen to also have joined in the report that Mr. Sutherland made except as we reserved the right to raise any particular pertinent points as we are here today in the heavy hauling field which is a variation.

Mr. Ellis: The purpose of the question was to perhaps make an objection to a question which Mr. Todd asked. I want to find out—he linked it right up with his holding a position as an officer of the American Trucking Association and I am apprehensive that he is going to try to develop from this witness that there is somebody that can speak efficiently in another capacity from a witness we have already heard from. If his testimony is that he personally doesn't agree with it, I don't want to ask any preliminary [fol. 2084] questions or object at all, but since it was linked right up with the question immediately preceding that he was an officer of this association, I think we are entitled to know whether Mr. Sutherland was speaking for the asso-

ciation or whether he is coming in here now purporting to speak for the association also.

Exam. Lawton: I understand this man only speaks for the contract carrier part of the association.

Mr. Ellis: No, that is not what the last question was.

Exam. Lawton: Off the record.

(Discussion off the record.)

Exam. Lawton: On the record.

Mr. Todd: Do you have the last question in mind?

Mr. Lieberman: May I ask whether you mean him personally or as an officer of the Wisconsin association or as a vice-president of the ATA? He is here in three capacities apparently.

Exam. Lawton: In what capacity is this question being asked?

By Mr. Todd:

Q. First, Mr. Williams, do you personally subscribe to the majority report submitted by the American Trucking Association which is an exhibit in this case.

A. I do not.

Q. And speaking on behalf of the Contract Carrier Conference do they subscribe wholly to the position taken by the majority report?

A. The conference does not.

[fol. 2085] Q. And in what way does the conference differ from the position of the parent association?

A. Principally on the so-called one-way trip leasing.

Q. Wherein fundamentally do you differ with the majority report of the American Trucking Association?

A. I differ both with regards the one-way trip leasing and in the majority report's approval of the so-called haulage agreements wherein agreements are made by so-called independent contractors and who in effect are servants of the company owning the operating authority.

Exam. Lawton: That is just your opinion, is that right, that they are servants?

A. That is, that is right.

By Mr. Todd:

Q. Now, why, Mr. Williams, do you personally and the Contract Carrier Conference object to the practice of trip leasing motor vehicles except between authorized carriers?

A. The most pertinent objection is the question of unfair competition inasmuch as in the practical application of it, the responsibility for the return of the equipment and the responsibility of bringing a man back to the town from which you sent him is completely avoided. That is not true when a carrier uses his own men and his own equipment. Coupled with that as another reason is the fact that when that responsibility is shelved the question of control of the equipment, adherence to the regulations—and I am talking about the Interstate Commerce Commission regu- [fol. 2086] lations particularly—those regulations framed to protect the public also may be avoided, so that in fact you have regulation of one carrier and only semi-regulation of another carrier.

Q. Wherein does the unfair competitive situation come into play when one carrier is using trip lease equipment and another one is using equipment which he owns and operates?

A. In the matter of the trip lease equipment the man, if left to his own devices at a terminal point many miles away from his home, is often under economic pressure to make any kind of a bargain that he can secure to get his equipment back to his own home and his own family, as a result of which he moves around and takes the most favorable deal but at the same time under pressure he takes almost any deal in the final analysis and thereby subjects himself and the entire rate system and the competitive situation as far as balanced movements are concerned. All those matters are thrown out of balance. In other words, the return haul, if he succeeds in getting it is actually perhaps the main haul for another competitive carrier.

Q. Do you think or does that same condition exist, Mr. Williams, when one authorized motor carrier, either through an interchange arrangment or trip lease utilizes the facilities of another authorized carrier on a trip basis?

A. Usually not.

Q. Now, I believe you testified that at the present time you

[fol. 2087] are conducting a distribution operation for the Great Atlantic & Pacific Tea Company, is that correct?

A. That is right, sir.

Q. And in conducting that operation do you utilize tractors and trailers, particularly tractors that are equipped with van bodies?

A. Tractors equipped with van bodies?

Q. I meant trailers equipped with van bodies.

A. Yes.

Q. Is that correct?

A. That is correct.

Q. Does your company trip lease the vehicles of any other carriers in its operations?

A. No, we do not. May I explain further on that?

Q. Yes, go right ahead and explain, if you will, Mr. Williams, why you do not engage in trip leasing of owner operators.

A. I don't want to create the impression that at no time do we have more business than we have equipment, but I do find that when we are in that position we think it a fairer deal to grant that excess business to another carrier who has operating rights and whose rates may or may not be the same as ours. In that case, he bills direct to the shipper or he may bill through our office to the shipper, and we pass onto the shipper the exact rate that we are charged with and we pass onto the carrier the money which is collected from the shipper.

[fol. 2088] Exam. Lawton: That is contract carriers you have agreements with?

A. That is right, sir, and in some cases common carriers.

By Mr. Todd:

Q. Do you find that to be a more satisfactory arrangement, at least to your company, than the use of owner operators under a trip lease basis?

A. I think it is a fair arrangement all the way around.

Q. Why do you believe it is a fair arrangement?

A. Because the responsibility is controlled. The drivers and the equipment are under the control of an authorized carrier at all times.

Q. Mr. Williams, are you familiar with the order in this investigation setting it down for hearing?

A. Yes, I am.

Q. Are you familiar with the fact that the order in addition to controlling—contemplates, rather, in addition to controlling the leasing of motor equipment, also contemplates the control of the interchange of equipment?

A. Yes.

Q. Are you familiar with the fact that the order as proposed by the bureau insofar as it deals with the interchange of equipment would prohibit contract carriers from interchanging equipment with one another?

A. Yes, I am aware that there was one of the proposals had that suggestion but another one did not contain it, I believe.

[fol. 2089] Q. Do you favor a rule of this kind?

A. I do not.

Q. And why not?

A. The reason for the interchange of equipment between authorized carriers is to avoid the unnecessary loading and unloading of equipment. It seems to me that the advantages in one type of carrier is the same as another, whether it be common or whether it be contract or whether it be rail or whether it be motor carrier.

Q. Doesn't the order also insofar as interchange is concerned contemplate regulating the interchange of equipment between carriers where it may be done for the purpose of eliminating empty mileage on the part of either one or the other carrier?

A. That is a possibility.

Q. Do you think that there is any more reason to permit common carriers to so eliminate their empty mileage than to permit contract carriers to do the same thing?

A. I do not.

Q. Do you know whether the contract carrier conference at the annual meeting previously mentioned considered this portion of the order?

A. Yes, they did and a motion was passed to request counsel to eliminate that part of the order which discriminated against their particular members.

Q. Do you have any other statement which you would

care to make in connection with this general subject that [fol. 2090] is under investigation, Mr. Williams?

A. I would like to make this statement, that as a member of our state association, and particularly as a member of the labor negotiating committee of the industry in Wisconsin, that one of our great problems is the fact that where trip leasing and that type of operation is frequent, there is difficulty in securing the exact monies which is paid to the so-called owner operator or the driver of the owner operator's equipment. I say that because the lease agreement is generally in two parts; one with the overall coverage reflecting the remuneration and the other which embodies the actual wage, the first one being the remuneration for the vehicle plus his wages, in other words, all combined, all included, and the second instrument which merely deals with his wage rate. Now, as a matter of practice, in some instances where wages were raised and particularly in November, 1947, the over-all agreement was not moved at all, so that any wage increases or any advantage to that particular driver or owner operator was simply absorbed by him himself. And that situation is difficult when you get the competitive influences of the changing expense rate of other carriers.

Q. Mr. Williams, as a member of the Wisconsin Motor Carriers Association, as a matter of fact, as an officer of that organization, did you have anything to do with getting the State of Wisconsin to grant reciprocity to other states in the [fol. 2091] movement of motor vehicles into and through Wisconsin?

A. I was Chairman of the Legislative Committee into the hands of which went the attempts to secure passage of that particular bill.

Q. In working out the reciprocity did you experience any resistance on the part of state officials to enter into arrangements of that kind?

A. There was a great deal of resistance and it stemmed from the fact that they felt that with Wisconsin having higher license fees there would be a tendency for carriers, if there be reciprocity, to move their licensing away from Wisconsin and into the cheaper adjoining states, that is the cheaper licensing states. I regret to say, as a matter of

fact, that that situation which we promised would not occur has occurred and to the extent of, that I believe reciprocity in Wisconsin is definitely threatened.

Q. Does that situation of moving or of having the vehicles licensed in a state other than Wisconsin, is it more prevalent where the trip lease type of operation is used?

A. Quite honestly, no. Selfishness apparently runs true to form, I mean all the way through, whether it be the individual owners in some instances or whether it be the operating companies. It depends on who pay the license. There is a tendency, however, to whoever pays it to move away from the higher tax state.

Q. Now, where the trip lease is employed and it is the [fol. 2092] responsibility of the owner operator to furnish the license, is there a tendency to procure those licenses in some state other than Wisconsin with which it has a reciprocal arrangement?

A. Very definitely, and as a matter of information, the cheapest state, too, not necessarily the nearest adjoining state.

Mr. Todd: Mr. Examiner, I request that Exhibit No. 29 be received in evidence.

Exam. Lawton: Exhibit 29 will be received in evidence.

(Exhibit No. 29, Witness Williams, received in evidence.)

Mr. Todd: I now turn the witness over for cross-examination.

Exam. Lawton: You may cross-examine.

Cross-examination.

By Mr. Eldred:

Q. Mr. Williams, as I understand you were a member of the ATA leasing committee, is that correct, sir?

A. That is right, sir.

Q. Were you the Mr. Williams that issued a minority report.

A. That is correct.

Q. Did that appear in the Transport Topics, the issue of October 4, 1948?

A. I am familiar with it, I think.

Q. I will show you and ask you if this is the correct one.

A. Yes, that is the one.

Q. Was that a complete report, sir, of your committee, of yours?

A. Of the minority?

Q. Yes.

[fol. 2093] A. Yes, that is correct, sir.

Mr. Eldred: Now, Mr. Examiner, I would like permission to reproduce this report and introduce it at the Washington hearing, if such permission be granted.

Mr. Todd: Mr. Examiner, before you rule on that, I might say that I have no intention of having Mr. Williams in Washington at the hearing at that time.

Mr. Eldred: That is all right.

Mr. Turney: Mr. Examiner, in view of the nature of the request and Mr. Todd's statement, I certainly oppose any such arrangements as that until we have had a chance to see this minority report.

Mr. Eldred: I will offer at this time the copy, then, of the October 4th issue of Transport Topics containing the minority report of the ATA leasing committee prepared by Mr. C. J. Williams and I will furnish to all parties of record in this proceeding a copy of this report.

Mr. Turney: Prior to cross-examination?

Mr. Eldred: What?

Mr. Turney: Prior to cross-examination of Mr. Williams?

Mr. Eldred: No.

Mr. Turney: Then I object to it.

Exam. Lawton: He has merely made the offer. Mr. Williams is here for cross-examination.

Mr. Eldred: Then I will read each paragraph, Mr. Examiner.

[fol. 2094] Exam. Lawton: How long is it?

Mr. Eldred: Well, it is not too long, about two columns.

Exam. Lawton: Is there any question about it—can't you get that in the record somehow without all this fuss?

Mr. Turney: I think we ought to have a chance to see it. If we have an opportunity to examine it and go over it we may not have any objection to it.

Exam. Lawton: Off the record.

(Discussion off the record.)

Exam. Lawton: On the record, gentlemen. If you have got a copy of that for the record we will take it in.

Mr. Eldred: I will furnish a copy for the——

Exam. Lawton: You ought to be able to get enough copies.

Mr. Eldred: If I could obtain it. I don't know whether they are available. I am like Mr. Turney, I am not going to pay for all that reprinting.

Mr. Woll: If there is only one objector, we have one copy, we could give it to the gentleman and that will take care of it. Are you the only objector?

Mr. Turney: I don't know.

The Witness: I have no objection to giving them the copy of the typewritten report.

Mr. Ellis: Why didn't you offer it?

Mr. Todd: I thought my case was complete without it.

Exam. Lawton: The witness has copies.

[fol. 2095] Mr. Eldred: Mr. Examiner, I have a copy here of the minority report of the ATA Truck Leasing Committee prepared by Mr. Williams. I would like to have it offered for identification. I will furnish to all parties of record a copy of said report.

Exam. Lawton: It may be identified as Exhibit 30.

(Exhibit No. 30, Witness Williams, marked for identification.)

By Mr. Eldred:

Q. Mr. Williams, Exhibit marked for identification No. 30, was that a copy of the minority report?

A. That is right, sir.

Q. Of the ATA Leasing Committee. How many members were there on the committee, sir?

A. It changed during the course of the deliberations. I think there was nine at the beginning and finished up with eleven. Is that right, Mr. Todd, do you know?

Mr. Todd: I don't really know the number.

By Mr. Eldred:

Q. There was one other member of the committee in addition to yourself that was in agreement with this minority report?

A. That is right.

Q. Now, as I understood it you are a contract carrier, is that correct?

A. That is correct.

Q. And what was the other member of the minority report?

A. Common carrier.

[fols. 2096-2099] Q. Do either you or the other member, the common carrier, to your knowledge engage in leasing, put it trip leasing, first.

A. I know that I do not.

Q. Yes.

A. I am not positive whether the other member did and was willing to surrender it or whether he did not do it.

Q. Now, the committee circulated a questionnaire, did they not, sir?

A. That is right.

Q. Were those answers tabulated, to your knowledge?

A. Yes, they were tabulated.

Q. And was information available as to the number pro and con on each question in the questionnaire?

A. The returns were disappointing and it was so stated even in the deliberations of the committee.

Q. Would you care to state, sir, in what manner they were disappointing?

. . . . . .

[fol. 2100] By Mr. Eldred:

Q. Now, Mr. Williams, the question was, you stated that the returns from the questionnaire were very disappointing and I asked you the question that caused all the discussion, in what way were the returns disappointing?

[fol. 2101] A. Disappointing in number.

Q. In number?

A. That is right.

Q. Could you get very much of an idea to what the

opinion of the industry was as a whole from the returns, from the questionnaire?

A. No, I think you could get merely the opinion expressed by people who had what they thought was an advantage and wanted to protect it.

Q. Now, do you remember, sir, how many questionnaires were sent out, approximately?

A. No, I don't. There were quite a few. It ran into the thousands anyway.

Q. Yes. Do you know how many returns you received approximately?

A. The last tabulated replies that were brought to my attention numbered less than 200.

Q. In your opinion, sir, did the committee make its decision on the basis of returns from the questionnaire or upon their own opinion?

Mr. Diehl: To which I object for obvious reasons. It is an improper question.

Exam. Lawton: Objection sustained.

By Mr. Eldred:

Q. How many on the committee stated that they engaged in the practice of leasing?

Mr. Lieberman: I object to the question on the ground [fols. 2102-2104] it is irrelevant. He is reporting as to committee deliberations, not as to the personal beliefs of committeemen.

Exam. Lawton: Objection sustained.

* * * * * * *

[fol. 2105] By Mr. Eldred:

Q. Would you name for us the members of the committee?

A. Could I name them for you?

Q. Yes.

A. No, I don't believe I could at this time. I am familiar with some of them.

Q. How many meetings did the committee have?

A. Approximately five, two of which I didn't attend.

Q. Five?

A. Yes, I think it was five.

Q. You attended the final committee meeting?

[fol. 2106] A. Yes, that is right. I did conduct as chairman one of the regional committees which took place in Minneapolis.

Q. Mr. Sutherland, of Mid-Atlantic Transportation Company, he was the Chairman, is that true?

A. That is right.

Q. Mr. Vickers, Charlotte, do you remember him?

A. Akers, isn't it?

Q. Akers.

Mr. Idol: I object to cross-examination of this type. This is definitely direct examination. Mr. Williams is not appearing as a representative of the committee, either in a minority or any other capacity. He is appearing here as a representative of a contract carrier conference and—of his Wisconsin Association, and for himself personally. If counsel is going to examine on his committee affiliations, I submit he should follow the direct examination.

Mr. Eldred: Mr. Examiner, there has been a concerted attempt by these parties to prevent the testimony and the facts that took place in the committee meeting and I am going to withdraw from cross-examination at this time and let the cross-examination proceed and then at the end I will decide how to make Mr. Williams my witness.

Exam. Lawton: I think we will save time.

By Mr. Lorton:

Q. Mr. Witness, you testified that the matter of the Commission's proposed rule, as I understood you, and if [fol. 2107] not, you correct me, was before the Wisconsin organization, truck association for its consideration, did you not? Was it the proposed rules of the Commission or the report of the ATA which was before the Wisconsin trucking organization of which you are an officer?

A. Actually the proposed rules came out just prior to the Wisconsin motor carrier general membership meeting, their annual meeting and was discussed there. That was the first step of the Wisconsin Motor Carriers Association. That was prior to the ATA convention at Los Angeles, and I took down to that convention and presented it, that is

the Wisconsin resolution, I presented it to the Los Angeles convention of ATA.

Q. Then the Wisconsin Association expressed itself in regard to the subject matter of this hearing by a formal resolution, did it not?

A. It did.

Q. Would it be possible, sir, to have in this record a copy of that resolution as adopted by the Wisconsin Association?

A. Yes, sir. As a matter of fact, counsel has such a copy and has more than that, the subsequent actions that were taken by that Association.

Mr. Lorton: Upon the assurance of counsel, statement of counsel that those will be produced by this or some other witness or some other arrangement can be made, I will cease my inquiry of this witness in that regard. Do I understand [fol. 2108] there has been a statement of counsel with respect to this matter?

Mr. Todd: Yes, I have the President of the Wisconsin Motor Carriers Association who is ready, willing and able to testify concerning the matter.

Exam. Lawton: He probably could develop it better. Is that agreeable?

Mr. Lorton: I have no further questions.

By Mr. Wheeler:

Q. Mr. Williams, you referred to a regional meeting at Minneapolis. What meeting was that?

A. The truck leasing committee felt that in order to better secure the opinions of the trucking industry that it would split up into parts and those parts would conduct hearings or meetings in the various regions and I referred to the region of the Wisconsin and North and South Dakota, Iowa, Minnesota, that hearing was held in Minneapolis and I was chairman of that meeting.

Q. Was any action taken by that regional meeting?

A. The only action that was taken was my report to Chairman Sutherland of the over-all committee.

Q. What was that report?

Mr. Idol: I object, Mr. Examiner, to further examination along this line. It departs from the direct examination.

Mr. Wheeler: Mr. Examiner, I didn't even know about this regional meeting until he brought it up.

[fols. 2109-2111]. Exam. Lawton: That is right, he opened it up. Overruled.

By Mr. Wheeler:

Q. What was that report?

. . . . . .

[fol. 2112] A. All right, sir. Briefly, the carriers there, representation was small. They were opposed to trip leasing.

Exam. Lawton: Anyone else have any questions?

Mr. Ellis: In these first two or three questions I want it understood that I am asking them simply because Mr. Eldred was permitted to ask some questions and elicited certain replies.

Q. Mr. Williams, do you recall that over our objection you were permitted to answer a question concerning the questionnaires sent out by the committee of the National Association and you said that the results were disappointing; do you recall that?

[fol. 2113] A. I said disappointing in number.

Q. Yes.

A. That is right.

Q. And then when asked about the number you said about 200 replied, do you recall that?

A. I said the last tabulation I saw was something less than 200, I believe.

Q. Yes. Now, Mr. Sutherland, the Chairman of this committee, testified under oath at Washington, D. C. at Page 341 of the record that between four and 5,000 motor carriers in the United States answered this questionnaire. You are a little bit in error, aren't you?

A. I would say that the tabulation that he received, then, was later than when I last saw the tabulation and at the same time he may have received in answer to the questionnaire representatives of a number of carriers which he may have joined in making his tabulation.

Q. Well, now, I want to know, are you now saying that the

number was 200 and that Mr. Sutherland was wrong when he said it was between four and 5,000?

Mr. Woll: I object to that question. First of all, there is two questions in it. He may still maintain it was 200 and may not maintain that Mr. Sutherland was wrong. There may be different circumstances.

Mr. Todd: As a matter of fact, Mr. Examiner, I think the [fol. 2114] witness has explained to Mr. Ellis just exactly what his answer to these questions has been and that there isn't any conflict and that was simply an attempt to argue with the witness.

Mr. Ellis: I am convinced there is. They have been using that as a vehicle over here to argue that before your honor that less than 200 people had any interest in this thing and replied. That doesn't seem to be a fact.

Exam. Lawton: What was the answer to the first part of that?

A. My answer was that the last time I saw the tabulation and this was the report by ATA counsel, Harry Booth who made the report, Assistant Counsel of ATA, there were disappointing number of replies and that was commented upon by the committee. Whether in a later meeting which I did not attend there were more replies came in, I wouldn't be aware of that, except that even in the 200 or less than 200 that I saw one of those replies was from our association which represents 375 carriers, so the number of replies may be taken by adding the number of carriers under one heading.

Exam. Lawton: You are talking about the number of replies and each reply might have represented a great number of carriers, is that right?

A. It is possible.

Exam. Lawton: I thought you were referring to the number of carriers.

Mr. Ellis: That is what I thought too.

[fol. 2115] Exam. Lawton: It is possible Mr. Sutherland could have been correct, four or 5,000 carriers were represented?

A. I am not quarreling with Mr. Sutherland's position at all. All I state is it was their opinion and their comments in the meeting that the replies were disappointly small.

Exam. Lawton: Do you have any further questions?

Mr. Ellis: Yes, I do. I am not going to pursue that any further. I want to take up his cross-examination about the matters that Mr. Todd asked him about.

Q. Mr. Williams, I believe you said that you are the president of the Hillside Transit Company?

A. That is right, sir.

Q. And it is a contract carrier operating in interstate commerce?

A. That is right.

Q. And generally speaking I understood you to say that your operations are hauling for the A&P and oil hauling, is that right?

A. That is correct, sir.

Q. Those are the movements in which usually there is an outbound movement and not much of a return movement, isn't that right?

A. Particularly petroleum, not necessarily in groceries, however. We move canned goods into A&P warehouses from the outflung territory.

Q. How many pieces of equipment do you operate?

[fol. 2116] A. About a hundred power units and about an equal number of trailers.

Q. Do I understand those are owned by you or your company?

A. That is right, sir.

Q. And you are not now leasing or trip leasing any vehicles?

A. That is right, sir.

Q. Did you ever trip lease any vehicles?

A. No, sir.

Q. So far as your operations are concerned it is not necessary, is that right?

A. At the present time, correct.

Q. Now, I understood you to say that when you did have more freight than you could haul with your fleet that you

thought the thing to do was to turn it over to some other carrier, is that right?

A. That is right, sir.

Q. And I understood you to say you turned it over to the other carrier whether the rate of the other carrier was higher or lower than your rate?

A. That is right.

Q. And that you then collected the money from your shipper and turned it over to that carrier, is that right?

A. In some cases and in other cases the shipper pays the other carrier direct.

Q. I am talking about these cases where you said you [fol. 2117] collected the money.

A. In those cases I turn the money over to the carrier.

Q. When you collected the money did you bill the shipper in your name or the name of the other carrier?

A. In that case the billing came under our name.

Q. So you were in effect using the vehicle of someone else for transporting commodities without even going to the trouble of leasing it, isn't that right?

Mr. Woll: I object to the question. It is argumentative.

A. No, that isn't right.

Mr. Ellis: I don't think there is anything argumentative about it.

Exam. Lawton: You say that is not the fact?

A. No. All that the other carrier did was to use his equipment and his men and merely asked me to do the billing, that is all.

By Mr. Ellis:

Q. Yes, that is right, all he did was perform the transportation and all you did was to collect from the shipper in your name.

A. That is right, and the other carrier had the same operating rights and authority.

Q. All right. Now, what did you do in instances where the rate was higher than your rate?

A. Passed on the higher rate to the carrier that performed the work.

Q. But you billed these shippers on your own billing at a [fol. 2118] higher rate than your authorized rate with the Interstate Commerce Commission, isn't that right?

A. No, with the other carrier's name on the bill so the shipper knew definitely which carrier it was that performed the service and why the higher rate was there.

Q. But the money was paid to you?

A. The money was paid through me.

Q. Well, was the check made payable to you?

A. The check was——

. . . . . .

[fol. 2119] Q. Now, Mr. Williams, dropping that subject a moment, I want to take up another one. Your Exhibit No. 29 is the official expression of the Contract Carriers Conference of the ATA concerning the matter now in hearing before the Examiner, is that correct, sir?

A. That is correct, sir.

Q. And is that the complete and full and only written expression of the Contract Carriers Conference on this subject?

A. That is the deliberations——

Q. I didn't ask you about deliberations. Is there any other paper or document of any kind whatsoever adopted by the Contract Carriers in reference to this matter now under discussion?

A. As a matter of fact, I think there was one earlier than this in the previous meeting. I haven't got a record of that. This was the last one.

[fol. 2120] Q. Well, this is the one that superseded the other one then, is that right?

Mr. Todd: Mr. Ellis, may I ask you a question? Is your question directed now to trip leasing?

Mr. Ellis: It is directed to Exhibit 29.

Mr. Todd: I mean when you ask doesn't Exhibit 29 show all of the action that was taken by the contract carriers with respect to this subject, when you say "this subject" do you mean trip leasing or the general matter that is under investigation?

Mr. Ellis: I mean the matter under investigation, and I so stated in my question.

Mr. Todd: I just wanted that clear.

By Mr. Ellis:

Q. Is this document, Exhibit 29, the full and complete written expression of your division or conference on the subject matter of this hearing?

A. It is the last complete one, yes.

Q. Then all of these other opinions that you have expressed concerning these matters are your own opinions, is that right, sir?

A. Far from it.

Q. Well, they are not, at least, recorded in your Exhibit 29, that is right, isn't it?

A. This is the one which the Conference could agree upon but there were many in the Conference that supported my opinion.

[fol. 2121] Q. Well, I am not trying to get into divisions of your Conference. I will stand on what you did as an organization. This is all the organization did, is that right, sir?

A. That is its official position.

Mr. Ellis: Thank you, sir, that is all.

By Mr. Diehl:

Q. Who was the other person on the minority report with you, sir?

A. Mr. Williams, the oil field hauler.

Q. Did I understand you to say another Mr. Williams?

A. It so happens, yes.

Q. Where is his headquarters, I mean the headquarters of his company?

A. The headquarters of his company?

Q. Yes.

A. I am not too sure. It is a matter of record with the committee. His conference took the same position pretty well that the Contract Carrier Conference did.

Q. Has the Wisconsin association made an effort to get any legislation in Wisconsin to outlaw trip leasing?

A. Not as yet.

Q. Well, you have, as I understood you, been of your present opinion with respect to this matter for a number of years, have you not?

A. Ever since 1934. As a matter of fact, when we brought in and supported the Federal Motor Carrier Act, which was [fol. 2122] designed to correct this abuse.

Q. You have been an officer of the Wisconsin group for about that long, have you not?

A. On and off, yes, sir.

Q. And yet you tell me that the group as such have taken no action in an effort to outlaw trip leasing in your state, is that right?

A. That is because the——

Q. I didn't ask you what the reason was, just if you agree with me that that is a fact, first, and then we will go from there.

A. Well, that is a fact, yes.

Q. Yes. Now, I suppose you want to explain the failure of the group to act in that fashion, but what I wanted to ask you first was, is it the view of the entire Wisconsin group as expressed by you or are you there also a minority?

A. The records of the association—to make sure that it was not a minority opinion, we were not satisfied either with director action or with the general membership, so that the matter was put forward to both the general membership and also the board of directors. In the general membership there was less than, I believe less than 15 per cent—well, as a matter of fact, it was almost unanimous and in the board of directors there was one dissent, the board of directors comprised of 11, 15 now, that is right.

Q. Well, I don't understand what you were explaining [fol. 2123] right there, as to what we were leading up to.

A. I am explaining to you in answer to your question there was a great majority, an overwhelming majority in the Wisconsin association that expressed the opinion as recorded by myself.

Q. Now, has that opinion just been developed or has it like you been there all the time but just failed to act?

A. I think it has been there most of the time.

Q. Then how do you explain the failure of your state group to take some action?

A. Because in intrastate matters, why, there is very little trip leasing.

Q. Is there very much in interstate, trip leasing in Wisconsin?

A. Yes.

Q. How far do your operations extend?

A. We extend roughly about 50 or 60 miles into adjacent states of Wisconsin, in other words, south into Illinois and west into Iowa, some parts of Minnesota and the entire Michigan peninsula.

Q. Where are you encountering competition that is disturbing you or your business by trip leasing, trip lease operators?

A. Did I make the statement that I was?

Q. Well, I am asking you. First, then, are you encountering such competition?

A. Not directly, no, indirectly, yes because of our canned goods movement.

[fol. 2124] Q. You are a contract carrier, are you not?

A. That is right, sir.

Q. And as such you have a limited number of commodities that you can handle?

A. That is right.

Q. And you say that you are not directly encountering any competition from trip lease operators, is that right?

A. I might correct you on your other statement. You said a limited number of commodities?

Q. Yes. You are not a contract carrier of general commodities, are you?

A. Well, I don't know how you define the commodities that the A&P do business in.

Q. Well, it has a keystone limitation?

A. Well, keystone limitation was not on commodities, that was on the number or type of shippers.

Q. It is limited to commodities dealt in by the A&P Company, is that right?

A. That is right, and equipment and supplies and materials.

Mr. Diehl: That is all I have.

Exam. Lawton: Anyone else?

By Mr. LaTourette:

Q. Mr. Williams, where in Exhibit 29 you use the term "authorized carriers" when you speak of opposition to one-way trip leasing, do you use the term "authorized carriers" as it is defined in the Commission's order instituting [fol. 2125] these proceedings?

A. Yes, sir, I think what was actually meant were those carriers who had operating rights either as common or contract carriers.

Q. And your Conference has gone on record, then, I take it from Exhibit 29 that there be trip leasing as between both common and contract carriers?

A. No—as opposed to trip leasing, you mean?

Q. The resolution seems to indicate a favorable position on the part of the Contract Carriers Conference with respect to trip leasing where it concerns authorized carriers, both common and contract?

A. Well, perhaps the resolution isn't clear. What it meant, actually, and I believe it does state they meant that the leasing of equipment between one type of authorized carrier to another, that is common to common and contract to contract, they didn't mean the interchange between common and contract necessarily.

Mr. LaTourette: I see. That is all.

By Mr. Lieberman:

Q. Mr. Williams, what is the total number of members in the Wisconsin Association?

A. Roughly around, between three and 400.

Q. Of that number how many are certificated by the Interstate Commerce Commission or hold contract authority?

A. The majority are common carriers. I wouldn't know what percentage is entirely intrastate or who were interstate or who were both, inter and intra.

[fol. 2126] Q. Would you say the authority of carriers held authority from the Interstate Commerce Commission?

A. I couldn't tell you that as a matter of fact because

some of them I know are purely intrastate common carriers. Therefore, their authority comes from the Public Service Commission.

Q. Of the State of Wisconsin?

A. That is right.

Q. You are not in a position now to know what number hold interstate operating authority?

A. No, I wouldn't know that.

Q. Of those that do hold interstate operating authority can you tell us how many are so-called general commodity carriers as contrasted with special or named commodity carriers?

A. Most of them are general commodities.

Q. We are now speaking, of course, only of interstate?

A. That is right.

Q. When you say "majority" would you say the overwhelming majority or——

A. I would say the overwhelming majority are general commodity common carriers.

Q. Do you know how many of those carriers operate between Milwaukee and Chicago?

A. I don't know the exact number but I do believe there is another witness who would be able to testify as to that.

Q. Of those that hold special commodity authority what types of service are they authorized to perform, if you know?

[fol. 2127] A. Mostly special equipment services, some petroleum carriers and people like that.

Q. Is the expression of opinion of the Wisconsin Association based on deliberations of its entire membership, both interstate and intrastate authorized carriers?

A. That is right, sir.

Q. Can you tell us at the membership meeting whether a poll was taken as to how many interstate carriers were present and how many intrastate carriers were present?

A. No, I wouldn't know, as a matter of fact.

Q. Therefore, it is possible that the expression of opinion of the Wisconsin Association might have been the expression of opinion of the intrastate carriers?

A. I doubt that because the board of directors is definitely more representative of interstate carriers than it is

intrastate and their decision went along with the decision of the membership.

Q. It does not necessarily follow, does it, that the membership meeting was representative of the board of director representation, does it?

A. No, it doesn't follow; on the other hand, where the opinions are the same I would assume that the proportion would be accurate.

Q. And your answer is based on that assumption, is it not?

A. Not only based on that but the fact that this thing went to the Wisconsin Association groups not once but several times and the action was the same and I think that [fol. 2128] had there been any opposition to it on the part of the interstate carriers they would have either filed a minority opinion or else made known their position.

Q. Do you know at any of these meetings how many interstate carriers were present and how many intrastate carriers were present?

A. At the directors meetings?

Q. Only the membership.

A. Of the general membership, no, but I can assure you of this, that some of the most prominent large interstate carriers were present.

Q. The expression of opinion is yours and as testified here relates to your opinion insofar as practices of contract carriers are concerned, does it not?

A. No, I don't think so.

Q. Well, your condemnation of one-way trip leasing is a condemnation of that practice insofar as it is engaged in by contract carriers, is that correct?

A. No.

Q. What interest do you have in the practices of common motor carriers?

A. I have an interest in the practice of contract, common and also rail carriers as far as the future of this industry and my particular business future is concerned.

[fol. 2129] Q. Are there any household goods carriers members of the Wisconsin Association?

A. There may be some whose business is more or less—

their authorities may be incidental to other commodities but as a general rule they have a separate bureau which is not a member of our association.

Q. Any expression of opinion of the Wisconsin Association does not contain an expression of opinion of the household goods carriers of the State of Wisconsin?

A. That is right.

Mr. Lieberman: Thank you, that is all.

By Mr. Idol:

Q. Mr. Williams, I believe you said you approved in principle the rules proposed by the Interstate Commerce Commission in its order setting this proceeding for hearing. Did you mean to say that?

A. Yes, I did. That opinion of mine has been tempered in conformity with the later action of the Contract Carriers Conference and also the other people.

Q. Well, now, as far as the Contract Carriers Conference is concerned, it has taken no such position, has it?

A. The which?

Q. The Contract Carriers Conference. Is not its position that of supporting the ATA program with the exception of the trip leasing by authorized carriers?

A. That is correct, Mr. Idol, that, we felt, was the mini- [fol. 2130] mum logical step that the Commission should take.

Q. In other words, it is the contract carriers' position that says, "We support in principle the rules proposed by the Interstate Commerce Commission."

A. Excuse me. What was that question?

Q. There is a difference—what I am trying to point out, your statement was that you were supporting in principle rules proposed by Mr. Blanning and published in the order, where as as I understand it the action of your conference was to support the rules proposed by the ATA Truck Leasing Committee with the exception of——

A. That is correct, Mr. Idol. The position of the Contract Carrier Conference was not quite as strong as regards its opposition to leasing as was the Wisconsin Motor Carriers Association.

Q. Well, now then, you say the Wisconsin Motor Carriers Association. Are they supporting in principle the rules proposed by Mr. Blanning?

A. Yes, they definitely did originally.

Q. There must be a great deal of difference then. For example, Mr. Blanning's rules would require the driver of the equipment which you propose to lease from authorized carriers to be their employee.

A. That is right.

Q. I presume you do not subscribe to that?

[fol. 2131] A. No.

Q. Either personally or through the Wisconsin Association?

A. That is right, and for your information, Mr. Idol, the Wisconsin Motor Carriers Association did later modify their viewpoint, that is, to the extent of not supporting in full the proposals of the ICC.

Q. Without going into detail, you do realize there are a number of differences between the ATA proposal and Mr. Blanning's proposal other than the trip leasing. What my question is, I can shorten it if you will give me an answer to this, where there are differences between Mr. Blanning's proposals and the ATA proposal, is your position in support of ATA with the exception only of the trip leasing?

A. Do you want my individual position?

Q. On behalf of the people you represent, first the Contract Carrier Conference, the Wisconsin Association.

A. The Wisconsin Association would go far beyond the opinion or the majority report as it is called of the ATA.

Q. Is that to be covered by another witness?

Exam. Lawton: Will it be, Mr. Todd?

Mr. Todd: Yes.

The Witness: I think it is going to be covered, yes. I think so.

By Mr. Idol:

Q. I have one other point to cover. You gave an illustration of why trip leasing by owner operators was in your [fol. 2132] opinion undesirable. That illustration in general was to the point of an owner operator being turned

loose at the end of a one-way trip with no way of getting back and then seeking employment and possibly beating down the price.

A. That is right. A lot of elements enter into it.

Q. First, do you have any personal knowledge of any such circumstance? I understand you don't trip lease.

A. That is right; yes, I have personal knowledge to the extent—Although I think the next witness will have a more direct answer. I can only tell you what carriers inform me.

Q. Well, that is the point I want to bring out. You have no personal knowledge of your own on that situation?

A. That is right.

Exam. Lawton: We will take a five-minute recess.

(A recess was taken for five minutes.)

Exam. Lawton: All right, Mr. Idol, proceed.

By Mr. Idol:

Q. Do you know there is a substantial difference between the proposal of the ATA and Mr. Blanning's recommendations with respect to interchange rules?

A. That is right.

Q. Does the ATA proposal meet with your approval?

A. Insofar as interchange between authorized carriers?

Q. Yes.

A. Yes, sir.

Q. Mr. Blanning's proposal does not?

[fols. 2133-43] A. That is correct, sir.

Mr. Idol: That is all I have.

Exam. Lawton: Any other cross-examination?

By Mr. Woll:

Q. Referring to Exhibit 29, Mr. Williams, as I understand that exhibit the Contract Carrier Conference has gone on record as stating that this trip leasing results in motor trucks being operated on the public highways without proper responsibility being assumed. Would you tell me

why you feel that there is not proper responsibility being assumed?

* * * * * * *

[fol. 2144] By Mr. Eldred:

Q. At the meeting of the committee, sir, what consideration was given to these regional reports?

Mr. Ellis: To which we object because that would call for an analysis of the mental processes of each member of the committee and this man can only tell about what consideration he gave it. He couldn't possibly know what other members of the committee may have done or what weight they did or did not give to other matters.

Mr. Turney: I might also state that he has already testified that he missed a substantial number—I don't know what percentage it was, but a substantial number of the deliberations he was not there. Included in his minority report was the statement that he missed the No. 1 at which the committee voted. Now, I submit that that seems to raise a serious question of his qualifications to answer any such question as that.

Exam. Lawton: I think that is right.

By Mr. Eldred:

Q. All right. At the final meeting when the majority report was adopted were you present at that time?

A. No, sir. I stated that on my minority report. I regretted my inability to attend that meeting.

[fol. 2145] Q. When the second preliminary report was adopted, were you present at that time?

A. Yes; I think I was.

Q. Would you tell us whether these reports were brought up before the meeting for discussion?

Mr. Ellis: To which we object as not tending to prove or disprove any of the issues in this case.

Exam. Lawton: Overruled.

Mr. Idol: I object, Mr. Examiner, because there is no showing that the meetings have been held so that the reports would be available and I know as a matter of fact that the meeting had not been held——

The Witness: They were held between the ultimate meeting and the last meeting.

Exam. Lawton: So that at the second meeting of your committee the reports were not available, is that right?

A. The one before the last meeting; these regional meetings occurred prior to the last meeting of the committee.

Exam. Lawton: Subsequent to the first meeting, is that correct?

Mr. Turney: Subsequent to all the previous meetings.

A. Subsequent to all the previous meetings.

By Mr. Eldred:

Q. As I understand it, Mr. Williams, you would not know as to what consideration was given to these reports at the meeting?

A. That is right, sir.

Q. I see. Now, in connection with leasing between carriers, take for instance contract carriers, sir, do I under- [fol. 2146] stand that you propose the Commission authorize, for instance, carriers such as yours, may operate from Milwaukee to Chicago and then when your truck reaches Chicago that in turn it would lease it to another carrier that had authority to operate from Chicago to Milwaukee?

A. I don't know, I don't think I said that.

Q. No, I didn't infer that you did. I was just trying to find out whether that was what you meant by leasing between carriers.

A. No, Mr. Eldred, I meant this, if, for instance, our authority, we reach the terminal point of our authority and our shipper has merchandise which he desires to go by truck beyond the point of our authority, that we should be able at that point to turn our trailer over to another carrier rather than unload the merchandise from our vehicle into his vehicle. That is just a question of economy in loading and unloading.

Q. Then really that is a question of interchange, is it not?

A. In a way, but of course, with contract carriers, we each would retain our own rates. In other words, we would be paid for our haul with our schedule on file with the Com-

mission from the point where we take the merchandise to the point where we turn it over to the other carrier.

Q. Yes.

A. Unlike common carriers, there would be no——

Q. Through joint rates?

[fol. 2147] A. Through joint rates, that is right.

Q. You wouldn't propose at that time to turn over your power unit?

A. Oh, no.

Q. You would still leave the trailer?

A. That is right, sir.

Q. You would not approve of a proposed lease such as I have previously inquired of you about?

A. I would not, no.

Q. I believe I asked you, you still hold the same views as were recorded in the minority report which has been accepted as evidence as Exhibit 30?

A. That is correct, sir.

Mr. Eldred: I believe that is all I have, sir.

Mr. Diehl: I have one question as a result of this last series of questions. It will only take a moment, I believe, sir.

Exam. Lawton: All right.

By Mr. Diehl:

Q. If I understood your answer to Mr. Eldred's question, you were answering him personally rather than basing it on the action of the ATA groups as to the interchange or lease of equipment between authorized carriers, is that correct?

A. Well, yes, although the Contract Carrier Conference, of course has gone on record as requesting the interchange of trailer equipment.

Q. Didn't the Conference approve the ATA report to the [fol. 2148] extent that——

A. Oh, yes, but the ATA report, of course, did not differentiate between contract and common carriers.

Q. I am saying, your Conference did support the ATA to the extent that it favored leasing of equipment between authorized carriers?

A. That is correct.

Q. And it didn't confine it to the example which you used and it did include the example that Mr. Eldred used, did it not?

A. Yes, it may have.

Mr. Diehl: Yes. That is all.

Mr. Eldred: But you personally were not in favor of the latter type of lease?

A. That is right.

Mr. Eldred: Yes. That is all.

By Mr. Floyd:

Q. Mr. Williams, is it a fact that in your objections to truck leasing that you are speaking of the transportation of general commodities?

A. That is partly true, although the same problems can and do occur, of course, with other commodities. In other words, it may not be confined—my practical experience is both as regards general commodities, of course, mixed commodities and also with the tank operation, but I must admit that where you have a tank operation that you are not likely to run into the same problems as you are with general commodities.

[fol. 2149] Q. Now, let us take a large object, such as machinery that is moved by the heavy hauling industry. Do you know anything about that particular type of transportation?

A. No, not very much.

Q. So so far as your remarks are concerned, they probably would not be directed at that particular type of transportation, am I correct?

A. No, they would not.

Mr. Floyd: That is all.

Exam. Lawton: Anyone else?

Mr. Todd: I have a few questions, Mr. Examiner, on redirect. It will only take me a few minutes.

Redirect examination.

By Mr. Todd:

Q. Mr. Williams, just so that the record might be clear, isn't it true that the contract carrier conference in addition to taking the action set forth in Exhibit No. 29 also passed a motion at its annual meeting wherein in substance the conference favored contract carriers be afforded the same privileges under any interchange arrangements that common carriers would be afforded?

A. Yes, they did.

Q. At your Wisconsin meeting, where I believe you stated upon cross-examination that a number of the larger interstate carriers were present, could you name some of those carriers?

A. Oh, yes.

[fol. 2150] Q. Who were they?

A. Olson Transportation Company, probably the largest in interstate carriage in Wisconsin; the Gateway City Transfer Company also was represented. They are the second largest, I believe. I am not quite sure which is the first and which is the second. The numerous carriers that operate between Milwaukee and Chicago, the majority of them were there; Advance Transportation, for one, I don't recall all of them, there was quite a number. I believe the next witness would be able to name some of the others.

Q. That would suffice anyway. Now, with respect to your own operations, could you, when your company has more traffic to handle than you have vehicles in which to handle it, employ the trip lease operating method and realize a profit on it rather than handle the traffic as you do through some other authorized carriers?

Mr. Idol: I object, there has been no basis laid for that. To the contrary, the witness has testified he has never trip leased. Now here is a man asking him to say what would happen if he did.

Mr. Todd: I didn't ask him what would happen if he did; I asked him if he could do that under a profitable arrangement.

Exam. Lawton: It would have to be a guess, he wouldn't know. He hasn't had any experience.

The Witness: It would have to be a guess on what kind of [fol. 2151] a bargain I could make.

Exam. Lawton: That is right.

By Mr. Todd:

Q. You are familiar, are you not, Mr. Williams, with the fact that many of the trip leases are on a percentage of the revenue received from the load?

A. Oh, yes, I am perfectly aware there are many kinds, types of remuneration.

Q. Wouldn't you profit if you paid 75 per cent of the revenue to have the merchandise hauled rather than a hundred per cent as you presently do?

A. Possibly.

Q. Now, with respect to authorized carriers, trip leasing their motor vehicles in the reverse direction where they might otherwise operate empty. Isn't it your understanding that it is the position of the Contract Carrier Conference that all authorized carriers should be able to employ that practice where they are trip leasing the equipment of one another?

A. That was the opinion of the carriers, yes.

Q. And do you differ in that opinion, Mr. Williams?

A. I think if permitted it should be definitely safeguarded. I recognize, as you must, that the return trip by two carriers involve agreements between themselves and may possibly freeze out a third carrier who has the same operating authority, and to whom that particular haul might be a very definite essential.

Mr. Todd: I think that is all, thank you.

[fol. 2152] Mr. Lieberman: May I ask the witness one question? Your expression of opinion does not cover—your personal expression does not cover the transportation of household goods, does it?

A. It does not.

Exam. Lawton: You are excused.

(Witness excused.)

Exam. Lawton: Did you have something, Mr. Krietsinger?

Mr. Krietsinger: Yes, Your Honor. With your permission

and if there is not too much objection from counsel, I would like to make a statement on behalf of my clients into the record.

I have with me Mr. Morris Stout, partner and General Superintendent of J. L. Cox & Son, Raytown, Missouri, and Mr. Gaant Fowler, Vice-President and General Manager of Parkville Truck Company of Tulsa, Oklahoma. These two companies are engaged in the stringing and picking up of pipe lines which consist of the unloading of pipe from rail cars onto special equipment and transporting it to the pipe line right-of-way and unloading it and stringing it along the pipe line right-of-way.

Exam. Lawton: That operation has previously been described in the record.

Mr. Krietsinger: That same type of operation has previously been described by D. A. Vandeveer of J. R. Vandeveer & Son on Page 392 of the record. Mr. Vandeveer testified [fol. 2153] in Washington. The authority and territorial operations of the three carriers are identified insofar as their operations are concerned. Their equipment used in these operation is *identified*. They all operate in practically the same manner.

Now, they have no interest in what restrictions, if any, are placed upon the regular route motor common carriers in general commodities as resulting from this proceeding. These carriers contend that they are specialized operators, operating with special equipment and that they should be exempted from any restrictions. They all operate their own equipment except in situations which might be considered as emergencies when they run short of equipment on a job and it is necessary for them to rent or lease a truck or two trucks for a day or two or three days at a time.

Exam. Lawton: And if they testified their testimony would be substantially similar to that of Mr. Vandeveer?

Mr. Krietsinger: And if they testified their testimony would be substantially the same, both on direct and cross-examination.

Exam. Lawton: You have heard the offer. Is there any objection? Are you willing to stipulate that the testimony would be the same?

Mr. Lieberman: No objection?

[fols. 2154-2156] Mr. Idol: No objection.

Mr. Jessup: May I ask one question? Are these also equipment haulers?

Mr. Krietsinger: They are pipe line stringers.

Exam. Lawton: Exclusively?

Mr. Krietsinger: Yes.

Exam. Lawton: The stipulation is noted in the record and so ordered.

Mr. Krietsinger: I might also add that these carriers do not belong to any association nor do they have a group nor have they met in any meetings to consider that matter and Mr. Fowler and Mr. Stout have read the testimony of Mr. Vandeveer as shown in the record in the hearing room this afternoon and have authorized me to make this statement.

Exam. Lawton: Very well. We will adjourn until 9:30 in the morning.

(At 5:30 o'clock p. m., December 7, 1948, hearing adjourned to 9:30 o'clock a. m., December 8, 1948.)

[fol. 2157] PROCEEDINGS—December 8, 1948

Exam. Lawton: All right, come to order, please. We will resume the hearing. Mr. Todd, are you ready to proceed?

Mr. Todd: Yes, sir, I would like to call Mr. Martel, please.

Exam. Lawton: Take the stand, Mr. Martel.

V. H. MARTEL was sworn and testified as follows:

Direct examination.

By Mr. Todd:

Q. Would you give the reporter your full name and business address, please?

A. My name is V. H. Martel. My address is 605 South 12th Street, Milwaukee, Wisconsin.

Q. What company are you connected with, Mr. Martel?

A. With the Yule Truck Lines.

Q. In what capacity?

A. I am the President.

Q. Would you explain briefly the nature of the business in which the Yule Truck Lines is engaged?

A. Well, the Yule Truck Lines is a regular common motor carrier operating between Milwaukee and Chicago and also serving the intermediate points.

Q. Did you say a regular route common carrier?

A. Yes.

Q. Does Yule Truck Lines transport general commodities?

A. Yes, they do.

[fol. 2158] Q. For how many years have you been connected with that company?

A. Approximately three and a half years.

Q. Were you engaged in the motor carrier industry prior to that time?

A. Yes, I was.

Q. For how long?

A. About five years.

Q. Now, Mr. Martel, is the Yule Truck Lines, Inc. a member of the Wisconsin Motor Carrier Association?

A. Yes, it is.

Q. Is it also a member of the Chicago-Milwaukee Conference?

A. That is correct.

Q. Do you hold any office in the Wisconsin Motor Carrier Association?

A. Yes, I am the President.

Q. Are you also active in the affairs of the Chicago-Milwaukee Conference?

A. Yes, I am.

Q. Do you know whether the Wisconsin Motor Carrier Association has discussed or taken any action with respect to the matter that is here under investigation by the Commission?

A. Yes, it has.

Q. Would you please explain for the record exactly what action the Wisconsin Motor Carrier association has taken?

A. Well, when the Commission instituted this proceeding the Wisconsin Motor Carrier Association polled its mem-

[fol. 2159] bers and of the 300, approximately 325 members

in our association, only one favored the trip leasing, the short-term trip leasing.

Q. Did the Association at any of its meetings pass any resolutions with respect to this subject?

A. Yes, they did.

Q. Do you have available in your possession the latest resolution passed by the organization?

A. I have.

Q. Would you read that resolution for the record, please?

A. Yes.

Mr. Ellis: Is this a written document, Mr. Todd?

Mr. Todd: Yes, it is.

Mr. Ellis: I object to his reading it, it can be put into evidence like all the rest of the resolutions.

Exam. Lawton: Do you have it available?

Mr. Todd: I don't have sufficient additional copies, Mr. Examiner. I don't know that there is any rule of practice that requires that I put it in as an exhibit as opposed to reading it. If the parties of record would like to have copies of it I will furnish it to them at a later date. It is not a very long resolution.

Exam. Lawton: May I see it, please? It is agreeable that we get copies?

Mr. Ellis: I was just doing it in the interest of saving [fol. 2160] time so we can move along a little. I withdraw the objection. Let him read it as far as I am concerned.

Exam. Lawton: Well, it would save a little to put it in as an exhibi.

Mr. Todd: I will be glad to do that.

Exam. Lawton: Who insists upon having a copy?

Mr. Lorton: Nobody. He is withdrawing his objection.

Exam. Lawton: I think it should go in as an exhibit. How many copies do you have?

Mr. Todd: I have just that one that is available here. I can get additional copies. I didn't anticipate——

Exam. Lawton: Off the record.

(Discussion off the record.)

Exam. Lawton: On the record. Inasmuch as the resolution appears to be very short it may be read in the record.

By Mr. Todd:

Q. Mr. Martel, just read the resolved paragraph.

A. "Resolved: That the American Trucking Association, Inc. be requested to petition the Interstate Commerce Commission to revise their rules and regulations applicable to the owner operator lease agreements to the end that the ICC will approve only long-term lease agreements which shall contain provisions requiring the lessee to take over and observe the safety requirements of the ICC; that all agreements require a master service arrangement to be in effect; that drivers be placed on the lessee's payroll, and that any independent contractor relationship between the [fol. 2161] parties be eliminated, likewise that short-term or trip leasing be prohibited for the reason they are generally abused and employed as a subterfuge to circumvent the provisions of the Federal Motor Carrier Act. Further that the vehicle be used exclusively in the services of the lessee during the term of the lease.

Q. Has the Chicago-Milwaukee Conference ever given any consideration to the matter that is here under investigation?

A. Yes, the Chicago-Milwaukee Conference has. As a matter of fact——

Mr. Ellis: Just a moment. That answers it. I want to object to this, or want to ask a preliminary question, if I may.

Exam. Lawton: You may ask it.

Mr. Ellis: Is that the Association that Mr. Girard appeared here in behalf of and testified at length for in this record?

A. I would presume that it is part of the Association. Mr. Girard not only represents our Association, he has others that he represents too.

Mr. Ellis: I am talking about this one. He represented the Chicago-Milwaukee Association and said he was manager of it. Is that the Association that you are now talking about?

A. Mr. Girard does represent the Milwaukee-Chicago group. It is not an affiliate association; it is merely a group of carriers.

Exam. Lawton: You are talking about the Association?

[fol. 2162] A. No, I am talking about that group of carriers.

Mr. Ellis: That is what I thought. Now, Mr. Examiner, if there is anything that has ever been fully explored I think it is the position of that Association by the man they picked out to send here for that purpose according to his testimony, and I am objecting to having this man rehash it and give us more of the same. We have got their position in the record.

Mr. Eldred: I think the other man was a paid employee. This man is a carrier. I think it is perfectly proper for him to testify.

Exam. Lawton: All he has testified to is that they did give consideration to the matter. I don't know, what is your next question, Mr. Todd?

Mr. Todd: The next question I was going to ask him is what action, if any, that group took.

Exam. Lawton: Off the record.

(Discussion off the record.)

Exam. Lawton: On the record.

By Mr. Todd:

Q. Now, Mr. Martel, will you please explain what action the Chicago-Milwaukee group took with respect to trip leasing?

A. Well, the Chicago-Milwaukee group gave this particular matter much consideration. The ultimate result was that we agreed that there would be absolutely no trip leasing whatsoever in our group.

[fol. 2163] Q. Now, by trip leasing do you mean trip leasing from authorized carriers or do you confine that to trip leasing between a carrier and a so-called itinerant trucker?

A. We do not consider the interchanging of equipment with authorized carriers, that is competitive carriers trip leasing. We were referring specifically to the trip lease owner operator or so-called itinerant trucker.

Exam. Lawton: By interchange of equipment do you mean just the interchange of the vehicles or an interchange accompanied by a driver of the vehicle?

A. In some cases interchange of trailer equipment and in some cases interchange of freight, you might say. In other words, competitors hauling our freight, competitors operating over the same authority as we have, hauling our freight for us.

Mr. Diehl: With the competitor's driver on the vehicle?

A. That is right.

By Mr. Todd:

Q. Why did you decide to give up the trip leasing of the so-called itinerant trucker?

Mr. Ellis: To which we object because Mr. Girard fully explained what the position of this Association was on that subject, this organization or whatever it is.

By Mr. Todd:

Q. Well, confining your testimony, Mr. Martel, with respect to trip leasing, to the position of the Wisconsin Motor Carriers Association and your own position, why did your company, for example, give up the use of trip leasing of the [fol. 2164] itinerant truckers?

A. Speaking for my own company for a moment, we felt that it was detrimental to our economic stability. We felt also that we could not possibly engage in trip leasing and still comply with the Commission's regulations as far as safety and physical fitness of the driver, and so on, is concerned.

Q. How did you arrive at the conclusion that it was contrary to the economic stability of the company to continue this practice?

A. Well, for this reason: When a carrier owns and operates its own equipment or operates under a continuous lease arrangement, he must accept the responsibility and the cost of that equipment at all times, whether it be loaded or whether it be empty. Now, knowing that he has to absorb that cost when that vehicle is empty, he takes that into consideration in his rate making. However, the carrier engaged in trip leasing is not concerned with the cost of empty equipment because he only pays for it when it

is loaded and that is the only time he is using it. If he does not have these costs to contend with, naturally he can operate for a somewhat cheaper cost than what we consider the legitimate operator, if I may use that expression, because there is no problem to him of bringing equipment back to his terminal empty. So it is perfectly feasible to assume, if that is correct, that the gypsy operator, so-called, would be in a very advantageous position as far as cutting our rate structure, I mean rate structures that we need to [fol. 2165] stabilize ourselves economically.

Exam. Lawton: Off the record.

(Discussion off the record.)

Mr. Todd: I will clear it up, Mr. Examiner.

By Mr. Todd:

Q. What do you mean when you use the term gypsy, Mr. Martel?

A. When I use the term gypsy I am referring to an owner operator who is engaged in trip leasing for any certificated carrier, or, well, for any carrier, as a matter of fact.

Q. You are not referring to the carrier who uses that type of equipment, are you?

A. No, no, I am referring to the owner operator himself.

Q. Now, at the present time are you faced in your Chicago-Milwaukee group and particularly your company with any unfavorable competition by a carrier who uses the so-called itinerant trucker on a trip-lease basis?

A. We very definitely are.

Q. Would you explain for the record what that situation is?

A. Yes, for approximately a year and a half we have enjoyed a very substantial movement of freight originating in points in Michigan and consigned to a company in our territory. I say for a year and a half we have been hauling this merchandise in connection with a Michigan carrier who does not engage in trip leasing practices. This carrier would pick the freight up at its origin point in Michigan [fol. 2166] and bring it to our dock in Chicago where we

would interchange the trailer equipment and deliver the freight to the consignee at the destination. Now, very recently this business has been theatened because a certain carrier whom we have reason to believe is operating almost exclusively on the trip-lease arrangment has published his own tariff which in some cases is almost 20 per cent below the tariff which our company and the other carrier, the joint-line carrier have published and it seriously is theatening the loss of that movement to us.

Exam. Lawton: Was that tariff interstate rates?

A. Yes.

Exam. Lawton: Did you know of it in advance? In advance of its becoming effective?

A. The tariff has been published for some time. The shipper recently had it called to his attention and decided then to use it.

Exam. Lawton: You didn't know about it at the time and protest it?

A. No, we didn't.

By Mr. Todd:

Q. Now, Mr. Martel, in this movement between Chicago and Milwaukee is the traffic balanced or is it heavier in one direction than in the other?

A. Well, the history of the Milwaukee-Chicago operation shows that there is a preponderance of tonnage moving [fol. 2167] northbound. It is not balanced.

Q. From Chicago to Milwaukee?

A. From Chicago to Milwaukee, yes.

Q. In order to handle that tonnage it is necessary that some empty miles be traveled in order to handle the over balance of tonnage out of Chicago?

A. Yes, it is.

Q. Did your company at one time employ the use of trip leases with the itinerant trucker?

A. We did quite extensively, yes.

Q. When you used that type of operation were the empty miles that you now have to travel eliminated as far as your company was concerned?

A. In some cases, yes. In many cases the owner operator absorbed the cost of deadheading.

Q. Instead of you having to do the deadheading he had to do it, is that correct?

A. That is absolutely correct. It was merely the shifting of the responsibility from us to him.

Q. Is that true in that particular operation just so long as the traffic remains unbalanced in that way?

A. Yes, I would say that it is.

Q. Now, what made you arrive at the conclusion that you could not comply properly with the Commission's safety rules and regulations and continue to use the itinerant [fol. 2168] trucker on a trip-lease basis?

A. Well, I could cite a specific example, however, I would rather generalize if I may. We would have these operators come to us and ask for loads. In some cases we would solicit them, too. However, they would come to us and they would probably tell us that they had worked the prescribed hours. We would have no way of knowing that they had other than from what they told us and we had reason to believe in some cases this was not entirely true because many of the owner operators do not carry their doctor's certificates with them. We had no way of knowing whether they were physically fit to drive that vehicle. Because we were only going to use them for one trip it would have hardly paid us to have our doctor examine them. We felt after giving it careful consideration that we could not possibly comply with the Commission's rulings if we continued to engage in that kind of practice.

Q. Now, when you were using the itinerant trucker on a trip-lease basis, did you furnish him with a placard or any type of identification showing that he was operating for the Yule Truck Lines?

A. Very early in our experience with them we did, yes. We discontinued it very shortly because we found that these placards in many cases were not coming back to us and that opened up the avenue of this operator operating on our authority either for someone else or for himself and we recognized that danger and discontinued using placards.

[fol. 2169] Q. When you were following this practice did you always ascertain whether the motor equipment that

the itinerant trucker had complied with the various specifications and regulations of the Commission concerning safety?

A. No, we did not.

Q. Why was that not practical?

A. Well, it wasn't practical for two reasons; one being that because, again, we were only using them probably for one trip to bring him into our garage, our inspection station, would hardly have been economical, so we didn't do that. The other, and probably the main reason, was because our garage location happens to be in Kenosha, Wisconsin, which is intermediate to Milwaukee and Chicago. We had no inspection station either at Milwaukee or Chicago and to bring the operator into Kenosha would have certainly been uneconomical as far as we were concerned. He would then have made half of his run and would have gone back to Chicago or back to Milwaukee to pick up his freight.

Q. How long has it been that your company discontinued the practice of using the itinerant trucker on a trip-lease basis?

A. About two years.

Q. Are you familiar with the financial reports that your company files with the Interstate Commerce Commission?

A. Yes, I am.

Q. Do you know whether those financial reports would [fol. 2170] show any purchased transportation?

A. Yes, they would show purchased transportation.

Q. Would that purchased transportation be monies paid to the itinerant trucker for trip leasing?

A. No, it would not.

Q. What would it be?

A. It would be paid to operators that we have on a continuous lease arrangement. It might also be paid to the competing carriers who have hauled freight for us, the situation which I described previously.

Exam. Lawton: Where in the report do you account for the cost of using carriers or owner operators on trip-lease basis or where would you account for that?

A. I am not familiar enough with the accounting angle of this industry as yet to tell you what account that would be in.

Exam. Lawton: It is your opinion that wouldn't come under the heading of purchased transportation?

A. It is my opinion that it would come under the heading of purchased transportation.

By Mr. Todd:

Q. Since you don't use the itinerant trucker on a trip-lease basis you wouldn't have any monies that are shown in that account as being paid to that type of operator?

A. Very definitely not.

Q. Mr. Martel, is there anything further that you would like to add to your testimony before you are cross-examined?

A. No, I don't think that there is.

[fol. 2171] Mr. Todd: You may cross-examine.

Cross examination.

By Mr. Eldred:

Q. Mr. Martel, did your association, this Wisconsin Motor Carriers Association, take any action regarding the leasing of trucks to shippers?

A. No, we did not.

Q. Did the Chicago-Milwaukee group take any action?

A. Not that I know of. My personal opinion would be no, because I am sure I would be advised and I was never advised of any action of that kind.

Q. Does Chicago-Milwaukee group to your knowledge engage in that practice?

A. Not to my knowledge, no.

Q. What is your personal opinion about that?

Mr. Todd: Mr. Examiner, I am going to object to getting off on subjects that were not covered on the direct testimony of this witness in the interest of saving time. This is an altogether new avenue of discussion.

Mr. Eldred: Well, Mr. Examiner, this is a part of the Commission's investigation. It is not going to be extensive, Mr. Todd.

Exam. Lawton: You asked for his opinion?

Mr. Eldred: Yes.

Exam. Lawton: That doesn't help very much, what his opinion is. If you ask him whether he indulges in the practice——

[fol. 2172] Mr. Eldred: I will ask him that.

Q. Do you lease trucks to shippers?

A. No, we do not.

Mr. Eldred: That is all, thank you.

Mr. Lorton: I have no questions.

Mr. Floyd: Just one question, please, sir.

Q. How many carriers, commonly known as heavy haulers, participated in the meetings preparatory to the drawing of the resolution which you have read into the record this morning?

A. I am sorry, sir, I would have no way of knowing just what the segregation was.

Q. Were any of your remarks that you have made so far this morning directed to that class of carriers?

A. Well, it would be logical to assume that they were because——

Q. I am not asking you what is logical. I am asking you if that is true or not, please.

A. Well, now, are you speaking about the remarks I made with reference to the Wisconsin Motor Carriers Association?

Q. That is right.

A. The resolution I believe would answer that. One opposing vote to the resolution I believe would cover that.

Q. First of all I asked you if there were any carriers, any of those heavy haulers participating when that resolution was drawn.

A. My answer to that is I don't know.

[fol. 2173] Q. That is right. Then I would not like to have you assume anything beyond that point. Do you know anything about this class of operations known as heavy hauling?

A. I do not.

Q. So far as any remarks that you made personally this morning, would they tend to show that these heavy haulers should be included in this same recommendation that you are making?

A. No, I would say not.

Mr. Floyd: Thank you very much.

Mr. Lieberman: May I at this time ask the witness several questions along the same line so we have continuity of this expression with respect to household carriers?

Exam. Lawton: Any objections? Hearing none you may proceed.

By Mr. Lieberman:

Q. Did any household goods carriers participate in the Wisconsin Association's deliberations?

A. No.

Q. Your remarks, of course—do you know anything about household goods carriage?

A. I do not.

Q. Therefore, any opinion that you may have expressed did not cover household goods operations?

A. That is correct.

Mr. Lieberman: Thank you.

[fol. 2174] Mr. Ellis: I want to ask him a question or two.

By Mr. Ellis:

Q. Mr. Martel, were you present here in the hearing room last evening when Witness Williams was on the stand?

A. Yes, I was.

Q. Did you hear him recount or attempt at least to recount the activities of the Wisconsin Association relative to taking the position or positions concerning this case now in hearing?

A. Yes.

Q. If I understood him right he finally said that they had modified their position two or three times and I now want to ask you whether this resolution that you read a portion of into the record this morning is the latest ex-

pression of that body on this subject or if there has been something else done afterwards.

A. My answer to that is that it is the very latest. I have something to add to that, if I may. When our Association was advised of this hearing we also polled our directors and asked them to take one step further and pass a resolution authorizing both Mr. Williams and myself to come to St. Louis and present our views. This resolution was drawn up and presented to the directors and was passed on with the majority I believe of 14 to one, the same dissenting vote as there was in the other resolution.

Q. Well, in any event this is the last expression, is that [fol. 2175] right, that is what I am trying to find out.

A. That is correct.

Q. What is the date of that action when this resolution was adopted?

A. September 14, 1948, I am quite sure. It may have been September 13 or September 15.

Q. This resolution is the expression of the Association as a whole, I take it?

A. Yes, it is.

Q. Of the members of your Association in percentage how many are exclusively intrastate operators?

A. I do not know.

Q. It is a fact that more than half of them are exclusively intrastate operators, isn't it?

A. I would not say that was a fact.

Q. You are President and you certainly ought to know your own membership. Can't you tell us something about that?

A. I can tell you something about that. I can't tell you what percentage is intra and what percentage is interstate carriers unless I were to scrutinize the membership roster and I haven't done that.

Q. In presenting this resolution you didn't make any investigation to determine how many of the people were people who would actually be affected and how many were people who had no interest in this case one way or another? [fol. 2176] A. This was a resolution passed by the Wisconsin Motor Carriers Association, not my resolution. It was passed by common carriers interstate as well as intra-

state and some of the largest carriers in Wisconsin were present at the time this resolution was passed.

Q. That is interesting. All I asked you was if in presenting it if you made any investigation to determine how many of the people who joined in it were people who were not effected in this proceeding in any way.

A. I did not make that investigation.

Mr. Ellis: Thank you, that is all.

Exam. Lawton: Anyone else?

By Mr. Diehl:

Q. During the time that you were using trip lease operators which I believe you said you did up until some two years ago, during that time you were connected with this company only a year and a half, is that right?

A. That is correct.

Q. You have been with the company three and a half years?

A. That is correct.

Q. A period of one and a half years you used trip lease operators?

A. Yes, we did.

Q. For the last two you haven't?

A. No.

Q. How many times have you been prosecuted by the ICC [fol. 2177] for failure to comply with the rules and regulations?

A. We have not been prosecuted.

Q. During the three and a half years you have been with the company you have never been prosecuted?

A. That is correct.

Q. Have you now an inspection station at Chicago, Illinois?

A. No, we have not.

Q. Do you have one at Milwaukee, Wisconsin?

A. No, we have not.

Q. You still have only the one in Kenosha?

A. That is correct.

Q. You spoke of using two people or two companies, I

got from what you said that you were leasing equipment from them?

A. I don't recall.

Q. Does your company lease any equipment from anybody?

A. Yes.

Q. Who do they lease from, I mean, what type—I am not asking you the name, to name them; what type of company do you lease from?

A. We lease from owner drivers on a continuous long-term lease arrangement.

Q. You do use owner operators now in your business, is that right?

A. Yes, we do.

Q. And you are a member of the Chicago-Milwaukee [fol. 2178] group that Mr. Girard spoke for the other day?

A. Yes.

Q. Did you hear his testimony?

A. I did not. I might say we do not——

Q. Just a moment, please. You can explain your answers but I am trying to complete my questions and if you have got anything to say you can say it or Mr. Todd will see that you say it on redirect.

Mr. Todd: But bear in mind, Mr. Witness, that you have an opportunity to explain any answer that you give.

Mr. Diehl: That is for sure.

Mr. Todd: Feel perfectly free to do so.

By Mr. Diehl:

Q. What I would like to know is since you are using owner operators in your present business, and as you tell me it is on a long-term basis, I suppose you have a written agreement with them?

A. Yes, we have.

Q. And for how long a period has that agreement, how long does it run?

A. That agreement is renewed each and every year. It has been in effect about——

Q. That isn't the question I asked you. Is it for a year?

A. That is right.